

## No. 1978-116

## AN ACT

## HB 489

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, adding provisions relating to public utilities and making repeals.

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PUBLIC UTILITIES

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(Reserved)

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 66, act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is amended by adding parts to read:

**TITLE 66**  
**PUBLIC UTILITIES**

**Part**

- I. Public Utility Code
- II. Other Provisions (Reserved)

**PART I**  
**PUBLIC UTILITY CODE**

**Subpart**

- A. Preliminary Provisions
- B. Commission Powers, Duties, Practices and Procedures
- C. Regulation of Public Utilities Generally
- D. Special Provisions Relating to Regulation of Public Utilities
- E. Miscellaneous Provisions

SUBPART A  
PRELIMINARY PROVISIONS

## Chapter

1. General Provisions
3. Public Utility Commission

CHAPTER 1  
GENERAL PROVISIONS

## Sec.

101. Short title of part.
102. Definitions.
103. Prior rights preserved.
104. Interstate and foreign commerce.

## § 101. Short title of part.

This part shall be known and may be cited as the "Public Utility Code."

## § 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Commission." The Pennsylvania Public Utility Commission of this Commonwealth.

"Common carrier." Any and all persons or corporations holding out, offering, or undertaking, directly or indirectly, service for compensation to the public for the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by, through, over, above, or under land, water, or air, and shall include forwarders, but shall not include contract carriers by motor vehicles, or brokers, or any bona fide cooperative association transporting property exclusively for the members of such association on a nonprofit basis.

"Common carrier by motor vehicle." Any common carrier who or which holds out or undertakes the transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor vehicle, or who or which provides or furnishes any motor vehicle, with or without driver, for transportation or for use in transportation of persons or property as aforesaid, and shall include common carriers by rail, water, or air, and express or forwarding public utilities insofar as such common carriers or such public utilities are engaged in such motor vehicle operations, but does not include:

- (1) A lessor under a lease given on a bona fide sale of a motor vehicle where the lessor retains or assumes no responsibility for maintenance, supervision, or control of the motor vehicles so sold.

(2) Transportation of school children for school purposes or to and from school sponsored extra curricular activities whether as participants or spectators, together with chaperons who might accompany them as designated by the board of school directors not exceeding five in number, or between their homes and Sunday school in any motor vehicle owned by the school district, private school or parochial school, or transportation of school children between their homes and school or to and from school-sponsored extra curricular or educational activities whether as participants or spectators, together with chaperons who might accompany them as designated by the board of school directors not exceeding five in number, if the person performing the extra curricular transportation has a contract for the transportation of school children between their homes and school, with the private or parochial school, with the school district or jointure in which the school is located, or with a school district that is a member of a jointure in which the school is located if the jointure has no contracts with other persons for the transportation of students between their homes and school, and if the person maintains a copy of all contracts in the vehicle at all times, or children between their homes and Sunday school in any motor vehicle operated under contract with the school district, private school or parochial school.

(3) Any owner or operator of a farm transporting agricultural products from, or farm supplies to, such farm, or any independent contractor or cooperative agricultural association hauling agricultural products or farm supplies exclusively for one or more owners or operators of farms.

(4) Any person or corporation who or which uses, or furnishes for use, dump trucks for the transportation of ashes, rubbish, excavated and road construction materials.

(5) Transportation of property by the owner to himself, or to purchasers directly from him, in vehicles owned and operated by the owner of such property and not otherwise used in transportation of property for compensation for others.

(6) Transportation of voting machines to and from polling places by any person or corporation for or on behalf of any political subdivision of this Commonwealth for use in any primary, general, municipal or special election.

(7) Transportation of pulpwood, chemical wood, saw logs or veneer logs from woodlots.

(8) Transportation by towing of wrecked or disabled motor vehicles.

(9) Any person or corporation who or which furnishes transportation for any injured, ill or dead person.

"Corporation." All bodies corporate, joint-stock companies, or associations, domestic or foreign, their lessees, assignees, trustees, receivers, or other successors in interest, having any of the powers or privileges of corporations not possessed by individuals or partnerships, but

shall not include municipal corporations, except as otherwise expressly provided in this part, nor bona fide cooperative associations which furnish service on a nonprofit basis only to their stockholders or members.

“Facilities.” All the plant and equipment of a public utility, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with, the business of any public utility. Property owned by the Commonwealth or any municipal corporation prior to June 1, 1937, shall not be subject to the commission or to any of the terms of this part, except as elsewhere expressly provided in this part.

“Forwarder.” Any person or corporation not included in the terms “motor carrier” or “broker” who or which issues receipts or billings for property received by such person or corporation for transportation, forwarding, or consolidating, or for distribution by any medium of transportation or combination or media of transportation, other than solely by motor vehicle.

“Highway.” A way or place of whatever nature open to the use of the public as a matter of right for purposes of vehicular traffic.

“Motor carrier.” A common carrier by motor vehicle, and a contract carrier by motor vehicle.

“Motor vehicle.” Any vehicle which is self-propelled, excepting power shovels, tractors other than truck tractors, road rollers, agricultural machinery, and vehicles which solely move upon or are guided by a track, or travel through the air.

“Municipal corporation.” All cities, boroughs, towns, townships, or counties of this Commonwealth, and also any public corporation, authority, or body whatsoever created or organized under any law of this Commonwealth for the purpose of rendering any service similar to that of a public utility.

“Person.” Individuals, partnerships, or associations other than corporations, and includes their lessees, assignees, trustees, receivers, executors, administrators, or other successors in interest.

“Public utility.”

(1) Any person or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:

(i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.

(ii) Diverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation.

(iii) Transporting passengers or property as a common carrier.

(iv) Use as a canal, turnpike, tunnel, bridge, wharf, and the like for the public for compensation.

(v) Transporting or conveying natural or artificial gas, crude oil, gasoline, or petroleum products, materials for refrigeration, or



oxygen or nitrogen, or other fluid substance, by pipeline or conduit, for the public for compensation.

(vi) Conveying or transmitting messages or communications by telephone or telegraph or domestic public land mobile radio service including, but not limited to, point-to-point microwave radio service for the public for compensation.

(vii) Sewage collection, treatment, or disposal for the public for compensation.

(2) The term "public utility" does not include:

(i) Any person or corporation, not otherwise a public utility, who or which furnishes service only to himself or itself.

(ii) Any bona fide cooperative association which furnishes service only to its stockholders or members on a nonprofit basis.

(iii) Any producer of natural gas not engaged in distributing such gas directly to the public for compensation.

"Railroad." Every railroad, other than a street railway, by whatsoever power operated, for public use in the conveyance of passengers or property, or both, and all the facilities thereof.

"Rate." Every individual, or joint fare, toll, charge, rental, or other compensation whatsoever of any public utility, or contract carrier by motor vehicle, made, demanded, or received for any service within this part, offered, rendered, or furnished by such public utility, or contract carrier by motor vehicle, whether in currency, legal tender, or evidence thereof, in kind, in services or in any other medium or manner whatsoever, and whether received directly or indirectly, and any rules, regulations, practices, classifications or contracts affecting any such compensation, charge, fare, toll, or rental.

"Service." Used in its broadest and most inclusive sense, includes any and all acts done, rendered, or performed, and any and all things furnished or supplied, and any and all facilities used, furnished, or supplied by public utilities, or contract carriers by motor vehicle, in the performance of their duties under this part to their patrons, employees, other public utilities, and the public, as well as the interchange of facilities between two or more of them, but shall not include any acts done, rendered or performed, or any thing furnished or supplied, or any facility used, furnished or supplied by public utilities or contract carriers by motor vehicle in the transportation of voting machines to and from polling places for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election, or in the transportation of any injured, ill or dead person, or in the transportation by towing of wrecked or disabled motor vehicles, or in the transportation of pulpwood or chemical wood from woodlots.

"Street railway." Every railroad and railway, or any extension or extensions thereof, by whatsoever power operated, for public use in the conveyance of passengers or property, or both, located mainly or in part upon, above, below, through, or along any highway in any city, borough, or town, and not constituting or used as a part of a trunk line railroad system, and all the facilities thereof.

“Tariff.” All schedules of rates, all rules, regulations, practices, or contracts involving any rate or rates, including contracts for interchange of service, and, in the case of a common carrier, schedules showing the method of distribution of the facilities of such common carrier.

“Transportation of passengers or property.” Any and all service in connection with the receiving, transportation, elevation, transfer in transit, ventilation, refrigeration, icing, storage, handling, and delivering of property, baggage or freight, as well as any and all service in connection with the transportation or carrying of passengers, but shall not mean any service in connection with the receiving, transportation, handling or delivering of voting machines to and from polling places for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election, or the transportation of any injured, ill or dead person, or the transportation by towing of wrecked or disabled motor vehicles, or the transportation of pulpwood or chemical wood from woodlots.

§ 103. Prior rights preserved.

(a) Existing law continued.—Except as otherwise specifically provided in this part, it is the intention of this part to continue existing law. Any public utility, contract carrier by motor vehicle, or broker rendering service or having the right to render service on the day preceding the effective date of this part shall be entitled to the full enjoyment and the exercise of all and every right, power and privilege which it lawfully possessed on that date.

(b) Existing proceedings, certificates, regulations, tariffs and contracts.—All litigation, hearings, investigations, and other proceedings whatsoever, pending under any repealed statute supplied by this part, shall continue and remain in full force and effect, and may be continued and completed under the provisions of this part. All certificates, permits, licenses, orders, rules, regulations or tariffs made, issued, or filed under any repealed statute supplied by this part, and in full force and effect upon the effective date of this part, shall remain in full force and effect for the term issued, or until revoked, vacated, or modified under the provisions of this part. All existing contracts and obligations of the commission or its predecessor, entered into or created under any repealed statute supplied by this part, and in force and effect upon the effective date of this part, shall remain in full force and effect and shall continue to be performed by the commission.

(c) Remedies cumulative.—Except as otherwise provided in this part, nothing in this part shall abridge or alter the existing rights of action or remedies in equity or under common or statutory law of this Commonwealth, and the provisions of this part shall be cumulative and in addition to such rights of action and remedies.

§ 104. Interstate and foreign commerce.

The provisions of this part, except when specifically so provided, shall not apply, or be construed to apply, to commerce with foreign nations, or among the several states, except insofar as the same may be permitted under the provisions of the Constitution of the United States and the acts of Congress.

CHAPTER 3  
PUBLIC UTILITY COMMISSION

Subchapter

- A. General Provisions
- B. Investigations and Hearings

SUBCHAPTER A  
GENERAL PROVISIONS

Sec.

- 301. Establishment, members, qualifications and chairman.
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- 316. Effect of commission action.
- 317. Fees for services rendered by commission.
- 318. Commission to cooperate with other departments.
- 319. Code of ethics.

§ 301. Establishment, members, qualifications and chairman.

(a) Appointment and terms of members.—The Pennsylvania Public Utility Commission, established by the act of March 31, 1937 (P.L.160, No.43), as an independent administrative commission, is hereby continued as such and shall consist of five members who shall be appointed by the Governor, by and with the advice and consent of two-thirds of all the members of the Senate, for a term of ten years. No commissioner upon the expiration of his term shall continue to hold office until his successor shall be duly appointed or shall be qualified.

(b) Qualifications and restrictions.—Each commissioner, at the time of his appointment and qualification, shall be a resident of this Commonwealth and shall have been a qualified elector therein for a period of at least one year next preceding his appointment, and shall also be not less than 30 years of age. No person shall be appointed a member of the commission or hold any place, position or office under it, who occupies any official relation to any public utility or who holds any other appointive or elected office of the Commonwealth or any political subdivision thereof.

Commencing July 1, 1977, commissioners shall devote full time to their official duties. No commissioner shall hold any office or position, the duties of which are incompatible with the duties of his office as commissioner, or be engaged in any business, employment or vocation, for which he shall receive any remuneration, except as provided in this chapter. No employee, appointee or official engaged in the service of or in any manner connected with, the commission shall hold any office or position, or be engaged in any employment or vocation, the duties of which are incompatible with his employment in the service of or in connection with the work of the commission. No commissioner shall be paid or accept for any service connected with the office, any fee or emolument other than the salary and expenses provided by law. No commissioner shall participate in any hearing or proceeding in which he has any direct or indirect pecuniary interest. Within 90 days of confirmation, each commissioner shall disclose, at that time and thereafter annually, the existence of all security holdings in any public utility or its affiliates held by such commissioner, his or her spouse and any minor or unemancipated children and must either divest or place in a blind trust such securities. As used in this part, blind trust means a trust over which neither the commissioners, their spouses, nor any minor or unemancipated children shall exercise any managerial control, and from which neither the commissioners, their spouses, nor any minor or unemancipated children shall receive any income from the trust during the commissioner's tenure of office. Such disclosure statement shall be filed with the secretary of the commission and shall be open to inspection by the public during the normal business hours of the commission during the tenure of the commissioner. Every commissioner, and every individual or official, employed or appointed to office under, in the service of, or in connection with, the work of the commission, is forbidden, directly or indirectly, to solicit or request from, or to suggest or recommend to any public utility, or to any officer, attorney, agent or employee thereof, the appointment of any individual to any office, place or position in, or the employment of any individual in any capacity by, such public utility. Every commissioner, every bureau director and every administrative law judge employed or appointed to office under, in the service of or in connection with the work of the commission, is prohibited from accepting employment with any public utility subject to the rules and regulations of the commission for a period of one year after terminating employment or service with the commission. If any person employed or appointed in the service of the commission violates any provision of this section, the commission shall forthwith remove him from the office or employment held by him.

(c) Chairman.—A member designated by the Governor shall be the chairman of the commission during such member's term of office. When present, the chairman shall preside at all meetings, but in his absence a member, designated by the chairman, shall preside and shall exercise, for the time being, all the powers of the chairman. The chairman shall have

such powers and duties as authorized by the commission as provided in section 331(b) (relating to powers of commission and administrative law judges).

(d) Quorum.—A majority of the members of the commission serving in accordance with law shall constitute a quorum and such majority, acting unanimously, shall be required for any action, including the making of any order or the ratification of any act done or order made by one or more of the commissioners. No vacancy in the commission shall impair the right of a quorum of the commissioners to exercise all the rights and perform all the duties of the commission.

(e) Compensation.—Each of the commissioners shall receive an annual salary of \$35,000, as of January 1, 1977, and \$40,000, as of January 1, 1978, except the chairman, who shall receive an annual salary of \$37,500, as of January 1, 1977, and \$42,500, as of January 1, 1978.

(f) Open proceedings.—The proceedings of the commission shall be conducted in accordance with the provisions of the act of July 19, 1974 (P.L.486, No.175), referred to as the Public Agency Open Meeting Law.

(g) Monitoring cases.—Each commissioner shall be responsible for monitoring specified cases as shall be assigned to him in a manner determined by the commission. All proceedings properly before the commission shall be assigned immediately upon filing.

#### § 302. Removal of commissioner.

The Governor, by and with the consent of two-thirds of all of the members of the Senate, shall remove from office any commissioner who violates the provision of section 301(b) (relating to establishment, members, qualifications and chairman) requiring commissioners to devote full time to their official duties and may remove any commissioner for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him, and affording him an opportunity to be publicly heard in person or by counsel in his own defense upon not less than ten days notice. If the commissioner is removed, the Governor shall file with the Department of State a complete statement of all charges made against the commissioner and his finding thereon, together with a complete record of the proceedings.

#### § 303. Seal.

The commission shall adopt and use an official seal, by which the commission shall authenticate its proceedings, and of which seal the courts shall take judicial notice. A copy of any paper or document on file with the commission authenticated by any such seal shall be evidence equally and in like manner as the original.

#### § 304. Administrative law judges.

(a) General rule.—The office of administrative law judge to the Pennsylvania Public Utility Commission is hereby created. The commission shall have the power to appoint as many qualified and competent administrative law judges as may be necessary for proceedings pursuant to this part, and who shall devote full time to their official duties

and who shall perform no duties inconsistent with their duties and responsibilities as administrative law judges. Administrative law judges shall be afforded employment security as provided by the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act." Compensation for administrative law judges shall be established by the commission within a range of \$25,000 to \$35,000. If the commission is occasionally and temporarily understaffed of administrative law judges, the commission may appoint qualified and competent persons who meet the minimum standards established by this part to temporarily serve as such judges, who shall serve at the pleasure of the commission and shall receive such compensation as the commission may establish.

(b) Staff.—The commission may appoint secretaries and legal or technical advisors to assist each judge in performance of his duties or may assign personnel from any of the other bureaus within the commission.

(c) Qualifications.—All judges must meet the following minimum requirements:

(1) Be an attorney in good standing before the Supreme Court of Pennsylvania.

(2) Have three years of practice before administrative agencies or equivalent experience.

(3) Conform to such other requirements as shall be established by the commission.

(d) Chief administrative law judge.—The commission shall appoint one of the administrative law judges as chief administrative law judge who shall be responsible for assigning a hearing judge to every proceeding before the commission which may require the utilization of an administrative law judge and who shall receive remuneration above that of any other administrative law judge. The position of chief administrative law judge may not be withdrawn from a person so appointed, nor his salary diminished, except for good cause shown. The chief administrative law judge shall have such other responsibilities as the commission may by rule prescribe.

§ 305. Secretary, employees and consultants.

(a) Secretary.—The commission may appoint and fix the compensation of a secretary to hold office at its pleasure. The secretary shall have such powers and shall perform such duties not contrary to law as the commission shall prescribe. The commission shall have power and authority to designate, from time to time, one of its clerks to perform the duties of the secretary during his absence, and the clerk so designated shall possess, for the time so designated, the powers of the secretary of the commission.

(b) Employees and consultants.—The commission may appoint, fix the compensation of, authorize and delegate such officers, consultants, experts, engineers, statisticians, accountants, inspectors, clerks and employees as may be appropriate for the proper conduct of the work of the commission. The total compensation paid to consultants in any fiscal year

shall not exceed 4% of the commission's budget. The commission shall keep records of the names of each consultant, the services performed for the commission, and the amounts expended for each consultant's services. The commission shall submit these records as a part of its annual budget submission. Such records shall be a matter of public record open for inspection at the office of the commission during the normal business hours of the commission. The commission shall establish, after consultation with the Civil Service Commission, standardized qualifications for employment and advancement, and all titles, and establish different standards for different kinds, grades, and classes of similar work or service. The employees of the commission shall be afforded employment security as provided by the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act," or the appropriate collective bargaining agreement, whichever is applicable, but the commission shall set the salaries of all employees in accordance with the employment standards established under this section.

§ 306. Counsel.

The office of chief counsel to the Pennsylvania Public Utility Commission is hereby created. The chief counsel shall be appointed by the commission and hold office at its pleasure. The commission may also from time to time appoint such assistant counsel to the commission as may be required for the proper conduct of its work. Assistant counsel may be removed by the commission only for good cause. The compensation of the counsel shall be fixed by the commission. In accordance with the multifunction legal staff established in this part, such counsel shall attend the hearings before the commission or a commissioner, or a special agent or administrative law judge, and conduct the examination of witnesses and shall represent the commission upon appeals and other hearings in the courts of common pleas and in the Commonwealth and Supreme Courts, or other courts of this Commonwealth, or in any Federal court or agency and in actions instituted to recover penalties and to enforce regulations and orders of the commission. Such counsel shall also assist the Attorney General in conducting all mandamus, injunction and quo warranto proceedings at law or in equity, instituted by him for the enforcement of the regulations and orders of the commission, and shall perform such other professional duties as may be required of them by the commission.

§ 307. Inspectors for enforcement.

The commission may employ such inspectors, as it may deem necessary, for the purpose of enforcing the provisions of this part. Such inspectors are hereby declared to be police officers, and are hereby given police power and authority throughout this Commonwealth to arrest on view, without writ, rule, order, or process, any person operating as a motor carrier or common carrier by airplane without a certificate or permit required by this part. Such inspectors are hereby given authority to stop vehicles on the highways of this Commonwealth, and to inspect the cargoes of such vehicles, and any receipts or bills of lading pertaining to such cargoes.

**§ 308. Bureaus.**

(a) Enumeration.—There shall be established within the commission the following bureaus and functions:

- (1) Law Bureau.
- (2) Bureau of Conservation, Economics and Energy Planning.
- (3) Bureau of Consumer Services.

(b) Law Bureau.—The Law Bureau shall be a multifunction legal staff, consisting of a prosecutory function and an advisory function. Prosecutory counsel shall be responsible for and shall assist in the development of, challenge of, and representation on the record of all matters in the public's interest. Advisory counsel shall advise the commission on any and all matters. The counsel shall appear on behalf of the commission in all courts of record and before district magistrates. No counsel shall in the same case or a factually related case perform duties in the prosecutory and advisory functions, if such performance would represent a conflict of interest.

(c) Bureau of Conservation, Economics and Energy Planning.—The Bureau of Conservation, Economics and Energy Planning shall conduct studies and research all matters within the commission's jurisdiction and advise the commission of the results thereof in order to enable the commission to provide prospective regulation in the best interest of all parties concerned. Such studies and research shall include long range forecasting of energy needs and development; research into the use of new, efficient and economic methods of energy production; the review of the efficiency of the present generating systems operated within this Commonwealth; and the development of an effective program of energy conservation. The commission shall require all electric and gas public utilities subject to its jurisdiction to file with it an annual conservation report which shows the plans and progress achieved on programs of energy conservation. The commission shall, by rule, prescribe guidelines for the form and manner of such annual conservation report which report shall describe the current and proposed programs of each such utility designed to educate and encourage its customers in the optimum, effective and efficient use by them of electric and gas energy. The report shall include an accounting of the monetary and personnel resources actually or proposed to be expended or devoted to and the actual or anticipated results of such programs. The bureau shall review all proposals for electric and gas public utility plant expansion and shall submit for consideration of the commission its findings on what impact, if any, the electric and gas public utility plant expansion will have on rates charged by the public utility.

(d) Bureau of Consumer Services.—The Bureau of Consumer Services shall investigate and have prepared replies to all informal consumer complaints and shall advise the commission as to the need for formal commission action on any matters brought to its attention by the complaints. The bureau shall on behalf of the commission keep records of all complaints received, the matter complained of, the utility involved, and the disposition thereof and shall at least annually report to the commission



on such matters. The commission may take official notice of all complaints and the nature thereof in any proceeding before the commission in which the utility is a party. The commission shall adopt, publish and generally make available rules by which a consumer may make informal complaints. The bureau shall also assist and advise the commission on matters of safety compliance by public utilities.

(e) Other bureaus.—The commission shall establish such bureau or bureaus to perform such duties as the commission may prescribe regarding all matters respecting rates of public utilities and all matters respecting common carriers and contract carriers. The establishment of these bureaus shall not be construed to prohibit the commission from establishing any additional bureaus which the commission finds necessary to protect the interests of the people of this Commonwealth. The bureaus may perform such other duties not inconsistent with law as the commission may direct.

(f) Staff testimony.—Members of the staff of the commission shall appear and present testimony in any proceeding before the commission when called by the commission or any of the parties to the proceeding. In addition to any cross-examination by counsel as provided in section 306 (relating to counsel), any member of the commission staff who participates in the analysis, review and conclusions in any proceedings before the commission may, in the discretion of commission counsel and with the consent of the presiding officer, cross-examine any witness presented by the parties to the proceeding at the public hearing.

#### § 309. Oaths and subpoenas.

The commission, or its representative, shall have the power, in any part of this Commonwealth, to subpoena witnesses, to administer oaths, to examine witnesses, or to take such testimony, or compel the production of such books, records, papers, and documents as it may deem necessary or proper in, and pertinent to, any proceeding, investigation, or hearing, held or had by it, and to do all necessary and proper things and acts in the lawful exercise of its powers or the performance of its duties. The fees for serving a subpoena shall be the same as those paid sheriffs for similar services.

#### § 310. Depositions.

The commission, or any commissioner, or any party to proceedings before the commission, may cause the deposition of witnesses residing within or without this Commonwealth to be taken in the manner prescribed by the Pennsylvania Rules of Civil Procedure for taking depositions in civil actions.

#### § 311. Witness fees.

Witnesses who are summoned before the commission shall be paid the same fees and mileage as are paid to witnesses in the courts of common pleas. Witnesses whose depositions are taken pursuant to the provisions of this part, and the officer taking the same, shall be entitled to the same fees as are paid for like services in such courts. All disbursements made in the payment of such fees shall be included in and paid in the same manner as is provided for the payment of other expenses of the commission.

§ 312. Privilege and immunity.

No person shall be excused from testifying or from producing any book, document, paper, or account in any investigation or inquiry by, or hearing before, the commission or its representative, when ordered to do so, upon the ground that the testimony or evidence, book, document, paper, or account required may tend to incriminate him or subject him to penalty or forfeiture. No person shall be prosecuted, punished, or subjected to any forfeiture or penalty for or on account of any act, transaction, matter, or thing concerning which he shall have been compelled, under objection, to testify or produce documentary evidence. No person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

§ 313. Joint hearings and investigations; reciprocity.

(a) Joint hearings and investigations.—The commission shall have full power and authority to make joint investigations, hold joint hearings within or without this Commonwealth, and issue joint or concurrent orders in conjunction or concurrence with any official, board, commission, or agency of any state or of the United States, whether in the holding of such investigations or hearings, or in the making of such orders, the commission shall function under agreements or compacts between states or under the concurrent power of states to regulate the interstate commerce, or as an agency of the Federal Government, or otherwise.

(b) Reciprocity.—The commission shall have full power and authority to arrange reciprocity of treatment of public utilities and contract carriers by motor vehicle of this Commonwealth by regulatory bodies, under regulatory laws of other states, and to that end the commission is hereby vested with power to impose upon public utilities and contract carriers by motor vehicle of other states, the same penalties, restrictions, and regulations as are imposed by the regulatory body of such other states upon public utilities and contract carriers by motor vehicle of this Commonwealth when operating into, out of, or through such other states.

§ 314. Investigation of interstate rates, facilities and service.

The commission may investigate the interstate rates, traffic facilities, or service of any public utility within this Commonwealth, and when such rates, facilities or service are, in the determination of the commission, unjust, unreasonable, discriminatory or in violation of any Federal law, or in conflict with the rulings, orders or regulations of any Federal regulatory body, the commission may apply, by petition to the proper Federal regulatory body, for relief, or may present to the proper Federal regulatory body all facts coming to its knowledge as to the violation of the rules, orders, or regulations of such regulatory body, or as to the violation of the particular Federal law.

§ 315. Burden of proof.

(a) Reasonableness of rates.—In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed

increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.

(b) Compliance with commission determinations and orders.—In any case involving any alleged violation by a public utility, contract carrier by motor vehicle, or broker of any lawful determination or order of the commission, the burden of proof shall be upon the public utility, contract carrier by motor vehicle, or broker complained against, to show that the determination or order of the commission has been complied with.

(c) Adequacy of services and facilities.—In any proceeding upon the motion of the commission, involving the service or facilities of any public utility, the burden of proof to show that the service and facilities involved are adequate, efficient, safe, and reasonable shall be upon the public utility.

(d) Justification of accounting entries.—The burden of proof to justify every accounting entry questioned by the commission shall be upon the public utility making, authorizing, or requiring such entry, and the commission may suspend any charge or credit pending submission of such proof by such public utility.

(e) Use of future test year.—In discharging its burden of proof the utility may utilize a future test year. The commission shall promptly adopt rules and regulations regarding the information and data to be submitted when and if a future test period is to be utilized. Whenever a utility utilizes a future test year in any rate proceeding and such future test year forms a substantive basis for the final rate determination of the commission, the utility shall provide, as specified by the commission in its final order, appropriate data evidencing the accuracy of the estimates contained in the future test year, and the commission may after reasonable notice and hearing, in its discretion, adjust the utility's rates on the basis of such data.

§ 316. Effect of commission action.

Whenever the commission shall make any rule, regulation, finding, determination or order, the same shall be prima facie evidence of the facts found and shall remain conclusive upon all parties affected thereby, unless set aside, annulled or modified on judicial review. The issuing or registration by the commission of any certificate, license or permit whatsoever, under the provisions of this part, or any finding, determination or order made by the commission refusing or granting such certificates, licenses or permits, shall not be construed to revive or validate any lapsed, terminated, invalidated or void powers, franchises, rights or privileges; or to enlarge or add to the rights, powers, franchises or privileges contained in any charter, or in the grant of any franchise, or any supplement or amendment to any charter, or to give or remit any forfeiture.

§ 317. Fees for services rendered by commission.

(a) General rule.—The commission shall by rule establish on a reasonable cost basis the fees to be charged and collected for the following services:

- (1) Copies of paper, testimony and records.
- (2) Certifying a copy of any paper, testimony or record.
- (3) Preparing and certifying to the Commonwealth Court any record in an appeal.
- (4) Filing of each securities certificate, or each application for a certificate of public convenience, registration certificate, permit or license.

(b) Fees for testing.—The commission shall charge and collect from public utilities for the testing of their instruments of precision and measuring apparatus the following fees:

For testing each watthour meter, \$16.

For testing each indicating instrument, \$10.

For testing each instrument transformer, \$10.

For testing each standard cell, \$5.

For testing each standard resistance, \$10.

For testing each potentiometer, \$50.

For testing each gas meter prover, \$35.

For testing each calorimeter tested at the gas company's plant, \$35.

For testing each calorimeter tested at the commission laboratory, \$10.

For each water meter testing apparatus tested at the company's plant, \$15.

For each water meter tested at the commission laboratory, \$3.

§ 318. Commission to cooperate with other departments.

(a) Vehicle registration plates.—The Department of Transportation and the commission are hereby authorized and directed to cooperate in the issuance by the Department of Transportation, under the provisions of Title 75 (relating to vehicles), of registration plates for commercial motor vehicles, which will classify and identify motor vehicles operated under certificates or permits issued by the commission, without the necessity of the requirement of separate identification plates in addition to registration plates required under Title 75.

(b) Purity of water supply.—The commission may certify to the Department of Environmental Resources any question of fact regarding the purity of water supplied to the public by any public utility over which it has jurisdiction, when any such question arises in any controversy or other proceeding before it, and upon the determination of such question by the department incorporate the department's findings in its decision.

(c) Powers of certain governmental agencies unaffected.—Nothing in this part shall be construed to deprive the Department of Health or the Department of Environmental Resources of any jurisdiction, powers or duties now vested in them.

§ 319. Code of ethics.

(a) General rule.—Each commissioner and each administrative law judge shall conform to the following code of ethics for the Public Utility Commission. A commissioner and an administrative law judge must:

- (1) Avoid impropriety and the appearance of impropriety in all activities.

- (2) Perform all duties impartially and diligently.
  - (3) Avoid all ex parte communications prohibited in this part.
  - (4) Abstain publicly from expressing, other than in executive or public session, his personal views on the merits of a matter pending before the commission and require similar abstention on the part of commission personnel subject to his direction and control.
  - (5) Require staff and personnel subject to his direction to observe the standards of fidelity and diligence that apply to the commissioner and administrative law judge.
  - (6) Initiate appropriate disciplinary measures against commission personnel for unprofessional conduct.
  - (7) Disqualify himself from proceedings in which his impartiality might be reasonably questioned.
  - (8) Inform himself about his personal and fiduciary interests and make a reasonable effort to inform himself about the personal financial interests of his spouse and children.
  - (9) Regulate his extra-curricular activities to minimize the risk of conflict with his official duties. He may speak, write or lecture and any reimbursed expenses, honorariums, royalties, or other moneys received in connection therewith shall be disclosed annually. Such disclosure statement shall be filed with the secretary of the commission and shall be open to inspection by the public during the normal business hours of the commission during the tenure of the commissioner or of the administrative law judge.
  - (10) Refrain from solicitation of funds for any political, educational, religious, charitable, fraternal or civic purposes, although he may be an officer, director or trustee of such organizations.
  - (11) Refrain from financial or business dealing which would tend to reflect adversely on impartiality, although the commissioner or administrative law judge may hold and manage investments which are not incompatible with the duties of his office.
  - (12) Conform to such additional rules as the commission may prescribe.
- (b) Removal of commissioner for violation.—Any commissioner who violates the provisions of subsection (a) shall be removed from office in the manner provided in section 302 (relating to removal of commissioner).
- (c) Removal of judge for violation.—Any administrative law judge who violates the provisions of subsection (a) shall be removed from office in the manner provided by the act of August 5, 1941 (P.L.752, No.286), known as the “Civil Service Act.”

## SUBCHAPTER B INVESTIGATIONS AND HEARINGS

Sec.

331. Powers of commission and administrative law judges.
332. Procedures in general.

- 333. Prehearing procedures.
- 334. Presiding officers.
- 335. Initial decisions.

§ 331. Powers of commission and administrative law judges.

(a) General rule.—The commission may, on its own motion and whenever it may be necessary in the performance of its duties, investigate and examine the condition and management of any public utility or any other person or corporation subject to this part. In conducting the investigations the commission may proceed, either with or without a hearing, as it may deem best, but it shall make no order without affording the parties affected thereby a hearing. Any investigation, inquiry or hearing which the commission has power to undertake or hold shall be conducted pursuant to the provisions of this chapter.

(b) Powers of chairman.—The commission may authorize the chairman to:

- (1) Designate the time and place for the conducting of investigations, inquiries and hearings.
- (2) Assign cases to a commissioner or commissioners for hearing, investigation, inquiry, study or other similar purposes.
- (3) Assign cases to special agents or administrative law judges for the taking and receiving of evidence.
- (4) Direct and designate officers and employees of the commission to make investigations, inspections, inquiries, studies and other like assignments for reports to the commission.
- (5) Be responsible through the secretary for specifically enumerated daily administrative operations of the commission.

(c) Requirements for presiding officers.—There shall preside at the taking of evidence the commission, one or more commissioners, or one or more administrative law judges appointed as provided in this chapter. The functions of all presiding officers shall be conducted in an impartial manner. Any such officer may at any time withdraw from a proceeding if he deems himself disqualified, and, upon the filing in good faith of a timely and sufficient affidavit of personal bias or disqualification of any such officer, the commission shall determine the matter as a part of the record and decision in the proceeding.

(d) Authority of presiding officers.—In addition to any administrative rules of procedure contained in this part, the commission may adopt and publish such additional rules of procedure as are not inconsistent with this part. Officers presiding at hearings shall have authority subject to the published rules of the commission and within its powers. to:

- (1) Administer oaths and affirmations.
- (2) Issue subpoenas authorized by law.
- (3) Rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken whenever the ends of justice would be served thereby.
- (4) Regulate the course of the hearing.

(5) Hold conferences for settlement or simplification of the issues by consent of the parties.

(6) Dispose of procedural requests or similar matters.

(7) Make decisions or recommend decisions in conformity within this part.

(8) Take any other action authorized by commission rule.

(e) Interlocutory appeals.—A presiding officer may certify to the commission, or allow the parties an interlocutory appeal to the commission on any material question arising in the course of a proceeding, where he finds that it is necessary to do so to prevent substantial prejudice to any party or to expedite the conduct of the proceeding. The presiding officer or the commission may thereafter stay the proceeding if necessary to protect the substantial rights of any of the parties therein. The commission shall determine the question forthwith and the hearing and further decision shall thereafter be governed accordingly. No interlocutory appeal to the commission shall otherwise be allowed, except as may be allowed by the commission.

(f) Declaratory orders.—The commission, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.

(g) Official notice defined.—As used in this chapter the term “official notice” means a method by which the commission may notify all parties that no further evidence will be heard on a material fact and that unless the parties prove to the contrary, the commission’s findings will include that particular fact.

### § 332. Procedures in general.

(a) Burden of proof.—Except as may be otherwise provided in section 315 (relating to burden of proof) or other provisions of this part or other relevant statute, the proponent of a rule or order has the burden of proof.

(b) Admissibility of evidence.—Any oral or documentary evidence may be received, but the commission shall as a matter of policy provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. No sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative and substantial evidence.

(c) Submission of evidence.—Every party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The commission may, by rule, adopt procedures for the submission of all or part of the evidence in written form.

(d) Record, briefs and argument.—The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision, and shall be available for inspection by the public. Briefing and oral argument shall be held in accordance with rules established by the commission.

(e) Official notice of facts.—When the commission's decision rests on official notice of a material fact not appearing in the evidence in the record, upon notification that facts are about to be or have been noticed, any party adversely affected shall have the opportunity upon timely request to show that the facts are not properly noticed or that alternative facts should be noticed. The commission in its discretion shall determine whether written presentations suffice, or whether oral argument, oral evidence, or cross-examination is appropriate in the circumstances. Nothing in this subsection shall affect the application by the commission in appropriate circumstances of the doctrine of judicial notice.

(f) Actions of parties and counsel.—Any party who shall fail to be represented at a scheduled conference or hearing after being duly notified thereof, shall be deemed to have waived the opportunity to participate in such conference or hearing, and shall not be permitted thereafter to reopen the disposition of any matter accomplished thereat, or to recall for further examination of witnesses who were excused, unless the presiding officer shall determine that failure to be represented was unavoidable and that the interests of the other parties and the public would not be prejudiced by permitting such reopening or further examination. If the actions of a party or counsel in a proceeding shall be determined by the commission, after due notice and opportunity for hearing, to be obstructive to the orderly conduct of the proceeding and inimical to the public interest, the commission may reject or dismiss any rule or order in any manner proposed by the offending party or counsel, and, with respect to counsel, may bar further participation by him in any proceedings before the commission.

§ 333. Prehearing procedures.

(a) Conferences.—The presiding officer shall have the authority to hold one or more prehearing conferences during the course of the proceeding on his own motion or at the request of a party to the proceeding. The presiding officer shall normally hold at least one prehearing conference in proceedings where the issues are complex or where it appears likely that the hearing will last a considerable period of time. In addition to other matters which the commission may prescribe by rule, the presiding officer at a prehearing conference may direct the parties to exchange their evidentiary exhibits and witness lists prior to the hearing. Where good cause exists, the parties may at any time amend, by deletion or supplementation, their evidentiary exhibits and witness lists.

(b) Depositions.—A party to the proceeding shall be able to take depositions of witnesses upon oral examination or written questions for purposes of discovering relevant, unprivileged information, subject to the following conditions:

- (1) The taking of depositions shall normally be deferred until there has been at least one prehearing conference.
- (2) The party seeking to take a deposition shall apply to the presiding officer for an order to do so.



(3) The party seeking to take a deposition shall serve copies of the application on the other party or parties to the proceedings, who shall be given an opportunity, along with the deponent, to notify the presiding officer of any objections to the taking of the deposition.

(4) The presiding officer shall not grant an application to take a deposition if he finds that the taking of the deposition would result in undue delay.

(5) The presiding officer shall otherwise grant an application to take a deposition unless he finds that there is not good cause for doing so.

(6) The deposing of a commission employee shall only be allowed upon an order of the presiding officer based on a specific finding that the party applying to take the deposition is seeking significant, unprivileged information not discoverable by alternative means. Any such order shall be subject to an interlocutory appeal to the commission.

(7) An order to take a deposition shall be enforceable through the issuance of a subpoena ad testificandum.

(c) Disclosure of information on witnesses.—At the prehearing conference or at some other reasonable time prior to the hearing, which may be established by commission rule, each party to the proceeding shall make available to the other parties to the proceeding the names of the witnesses he expects to call and the subject matter of their expected testimony. Where good cause exists, the parties shall have the right at any time to amend, by deletion or supplementation, the list of names of the witnesses they plan to call and the subject matter of the expected testimony of those witnesses.

(d) Interrogatories.—Any party to a proceeding may serve written interrogatories upon any other party for purposes of discovering relevant, unprivileged information. A party served with interrogatories may, before the time prescribed either by commission rule or otherwise for answering the interrogatories, apply to the presiding officer for the holding of a prehearing conference for the mutual exchange of evidence exhibits and other information. Each interrogatory which requests information not previously supplied at a prehearing conference or hearing shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objections shall be stated in lieu of an answer. The party upon whom the interrogatories have been served shall serve a copy of the answers and objections within a reasonable time, unless otherwise specified, upon the party submitting the interrogatories. The party submitting the interrogatories may petition the presiding officer for an order compelling an answer to an interrogatory or interrogatories to which there has been an objection or other failure to answer. The commission shall designate an appropriate official on whom other parties to the proceeding may serve written interrogatories directed to the commission. That official shall arrange for agency personnel with knowledge of the facts to answer and sign the interrogatories on behalf of the commission. The attorney or employee appearing on behalf of the

commission in the proceeding shall have the authority to make and sign objections to interrogatories served upon the commission. Interrogatories directed to the commission shall be allowed only upon an order of the commission based upon a specific finding that the interrogating party is seeking significant, unprivileged information not discoverable by alternative means.

(e) Requests for admissions.—A party to a proceeding may serve upon any other party and upon the commission to the same extent permissible in subsection (d) a written request for the admission, for purposes of the pending proceeding and to conserve hearing time, of any relevant, unprivileged, undisputed facts, the genuineness of any document described in the request, the admissibility of evidence, the order of proof and other similar matters.

(f) Subpoena duces tecum.—A party to a proceeding may obtain in accordance with commission rules a subpoena duces tecum requiring the production of or the making available for inspection, copying or photographing of relevant necessary designated documents at a prehearing conference or other specific time and place.

(g) Scheduling.—The presiding officer shall have the authority to impose schedules on the parties to the proceeding specifying the periods of time during which the parties may pursue each means of discovery available to them under the rules of the commission. Such schedules and time periods shall be set with a view to accelerating disposition of the case to the fullest extent consistent with fairness.

(h) Certification of interlocutory appeals.—Except as provided in subsection (b)(6), an interlocutory appeal from a ruling of the presiding officer on discovery shall be allowed only upon certification by the presiding officer that the ruling involves an important question of law or policy which should be resolved at that time. Notwithstanding the presiding officer's certification, the commission shall have the authority to dismiss summarily the interlocutory appeal if it should appear that the certification was improvident. An interlocutory appeal shall not result in a stay of the proceedings except upon a finding by the presiding officer and the commission that extraordinary circumstances exist.

(i) Protective orders.—The presiding officer shall have the authority, upon motion by a party or by the person from whom discovery is sought, and for good cause shown, to make any order, subject to the rules of the commission, which justice requires to protect the party or person.

(j) Other subpoenas.—The presiding officer shall have the power in accordance with commission rules to issue subpoenas ad testificandum and duces tecum at any time during the course of the proceeding.

#### § 334. Presiding officers.

(a) Presiding officers to decide.—The same presiding officer shall to the fullest extent possible preside at all the reception of evidence in a particular case to which he has been assigned. The same presiding officer who presides at the reception of evidence shall make the recommended

decision or initial decision except where such presiding officer becomes unavailable to the commission.

(b) Outside consultation prohibited.—Save to the extent required for the disposition of ex parte matters not prohibited by this part, no presiding officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate; nor shall any presiding officer be responsible to or subject to the supervision or direction of any officer, employee or agent engaged in the performance of investigative or prosecuting functions for the commission. No employee, appointee, commissioner or official engaged in the service of, or in any manner connected with the commission shall engage in ex parte communications save to the extent permitted by this part. No officer, employee or agent engaged in the performance of investigative or prosecuting functions for the commission in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision or commission review, except as witness or counsel in public proceedings.

(c) Ex parte communications.—Ex parte communications prohibited in this section shall mean any off-the-record communications to or by any member of the commission, administrative law judge, or employee of the commission, regarding the merits or any fact in issue of any matter pending before the commission in any contested on-the-record proceeding. Contested on-the-record proceeding means a proceeding required by a statute, constitution, published commission rule or regulation or order in a particular case, to be decided on the basis of the record of a commission hearing, and in which a protest or a petition or notice to intervene in opposition to requested commission action has been filed. This subsection does not prohibit off-the-record communications to or by any employee of the commission prior to the actual beginning of hearings in a contested on-the-record proceeding when such communications are solely for the purpose of seeking clarification of or corrections in evidentiary materials intended for use in the subsequent hearings.

§ 335. Initial decisions.

(a) Procedures.—When the commission does not preside at the reception of evidence, the presiding officer shall initially decide the case, unless the commission requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding officer makes an initial decision, that decision then shall be approved by the commission and may become the opinion of the commission without further proceeding within the time provided by commission rule. On review of the initial decision, the commission has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. When the commission makes the decision in a rate determination proceeding without having presided at the reception of the evidence, the presiding officer shall make a recommended decision to the commission in accordance with the provisions of this part. Alternatively, in all other matters:

(1) the commission may issue a tentative decision or one of its responsible employees may recommend a decision; or

(2) this procedure may be omitted in a case in which the commission finds on the record that due and timely execution of the functions imperatively and unavoidably so requires.

(b) Exceptions or proposed findings and conclusions.—Before a recommended, initial or tentative decision issued under this section, or a decision on commission review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the commission:

(1) (i) proposed findings and conclusions; or

(ii) exceptions to the decisions or recommended decisions of subordinate employees or to tentative commission decisions; and

(2) supporting reason for the exceptions or proposed findings or conclusions.

(c) Record.—The record shall show the ruling on each finding, conclusion or exception presented. All decisions, including initial, recommended and tentative decisions, are a part of the record and shall include a statement of:

(1) findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law or discretion presented on the record; and

(2) the appropriate rule, order, sanction, relief or denial thereof.

## SUBPART B COMMISSION POWERS, DUTIES, PRACTICES AND PROCEDURES

### Chapter

- 5. Powers and Duties
- 7. Procedure on Complaints
- 9. Judicial Proceedings

## CHAPTER 5 POWERS AND DUTIES

### Sec.

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§ 501. General powers.

(a) Enforcement of provisions of part.—In addition to any powers expressly enumerated in this part, the commission shall have full power and authority, and it shall be its duty to enforce, execute and carry out, by its regulations, orders, or otherwise, all and singular, the provisions of this part, and the full intent thereof; and shall have the power to rescind or modify any such regulations or orders. The express enumeration of the powers of the commission in this part shall not exclude any power which the commission would otherwise have under any of the provisions of this part.

(b) Administrative authority and regulations.—The commission shall have general administrative power and authority to supervise and regulate all public utilities doing business within this Commonwealth. The commission may make such regulations, not inconsistent with law, as may be necessary or proper in the exercise of its powers or for the performance of its duties.

(c) Compliance.—Every public utility, its officers, agents, and employees, and every other person or corporation subject to the provisions of this part, affected by or subject to any regulations or orders of the commission or of any court, made, issued, or entered under the provisions of this part, shall observe, obey, and comply with such regulations or orders, and the terms and conditions thereof.

§ 502. Enforcement proceedings by commission.

Whenever the commission shall be of opinion that any person or corporation, including a municipal corporation, is violating, or is about to violate, any provisions of this part; or has done, or is about to do, any act, matter, or thing herein prohibited or declared to be unlawful; or has failed, omitted, neglected, or refused, or is about to fail, omit, neglect, or refuse, to perform any duty enjoined upon it by this part, or has failed, omitted, neglected or refused, or is about to fail, omit, neglect, or refuse to obey any lawful requirement, regulation or order made by the commission; or any final judgment, order, or decree made by any court, then and in every such case the commission may institute injunction, mandamus or other appropriate legal proceedings, to restrain such violations of the provisions of this part, or of the regulations, or orders of the commission, and to enforce obedience thereto.

§ 503. Enforcement proceedings by Attorney General.

The Attorney General, in addition to the exercise of the powers and duties now conferred upon him by law, shall also, upon request of the commission, or upon his own motion, proceed in the name of the Commonwealth, by mandamus, injunction, or quo warranto, or other appropriate remedy at law or, in equity, to restrain violations of the

provisions of this part, or of the regulations or orders of the commission, or the judgments, orders, or decrees of any court, or to enforce obedience thereto.

**§ 504. Reports by public utilities.**

The commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce. The commission may require any public utility to file with it a copy of any report filed by such public utility with any Federal department or regulatory body. All reports shall be under oath or affirmation when required by the commission.

**§ 505. Duty to furnish information to commission; cooperation in valuing property.**

Every public utility shall furnish to the commission, from time to time, and as the commission may require, all accounts, inventories, appraisals, valuations, maps, profiles, reports of engineers, books, papers, records, and other documents or memoranda, or copies of any and all of them, in aid of any inspection, examination, inquiry, investigation, or hearing, or in aid of any determination of the value of its property, or any portion thereof, and shall cooperate with the commission in the work of the valuation of its property, or any portion thereof, and shall furnish any and all other information to the commission, as the commission may require, in any inspection, examination, inquiry, investigation, hearing, or determination of such value of its property, or any portion thereof.

**§ 506. Inspection of facilities and records.**

The commission shall have full power and authority, either by or through its members, or duly authorized representatives, whenever it shall deem it necessary or proper in carrying out any of the provisions of, or its duties under this part, to enter upon the premises, buildings, machinery, system, plant, and equipment, and make any inspection, valuation, physical examination, inquiry, or investigation of any and all plant and equipment, facilities, property, and pertinent records, books, papers, accounts, maps, inventories, appraisals, valuations, memoranda, documents, or effects whatsoever, of any public utility, or prepared or kept for it by others, and to hold any hearing for such purposes. In the performance of such duties, the commission may have access to, and use any books, records, or documents in the possession of, any department, board, or commission of the Commonwealth, or any political subdivision thereof.

**§ 507. Contracts between public utilities and municipalities.**

Except for a contract between a public utility and a municipal corporation to furnish service at the regularly filed and published tariff rates, no contract or agreement between any public utility and any municipal corporation shall be valid unless filed with the commission at least 30 days prior to its effective date. Upon notice to the municipal

authorities, and the public utility concerned, the commission may, prior to the effective date of such contract or agreement, institute proceedings to determine the reasonableness, legality or any other matter affecting the validity thereof. Upon the institution of such proceedings, such contract or agreement shall not be effective until the commission grants its approval thereof.

§ 508. Power of commission to vary, reform and revise contracts.

The commission shall have power and authority to vary, reform, or revise, upon a fair, reasonable, and equitable basis, any obligations, terms, or conditions of any contract heretofore or hereafter entered into between any public utility and any person, corporation, or municipal corporation, which embrace or concern a public right, benefit, privilege, duty, or franchise, or the grant thereof, or are otherwise affected or concerned with the public interest and the general well-being of this Commonwealth. Whenever the commission shall determine, after reasonable notice and hearing, upon its own motion or upon complaint, that any such obligations, terms, or conditions are unjust, unreasonable, inequitable, or otherwise contrary or adverse to the public interest and the general well-being of this Commonwealth, the commission shall determine and prescribe, by findings and order, the just, reasonable, and equitable obligations, terms, and conditions of such contract. Such contract, as modified by the order of the commission, shall become effective 30 days after service of such order upon the parties to such contract.

§ 509. Regulation of manufacture, sale or lease of appliances.

It is unlawful for any public utility engaged in the manufacture, sale, or lease of any appliance or equipment offered by such public utility for sale to the public to:

(1) Discontinue service to any consumer for failure of such consumer to pay the whole, or any installment, of the purchase price, or rental, of any appliance or equipment sold to such consumer.

(2) Apply to the purchase price or rental, or any part thereof, of any appliance or equipment purchased by, or leased to, a consumer of the service of the public utility, any deposit or other moneys of the consumer in the possession of the public utility. This restriction does not apply to any claims of the public utility against such consumer when such claims arise from damages to meters or other facilities used to measure and ascertain the quantity of service rendered by the public utility.

(3) Employ in the manufacture, sale, or lease of any such appliance or equipment, any property used in, or revenue derived from, the rendering of service to the public, unless separate accounts as to the property used and the costs incurred by, and the revenue derived from, the manufacture, lease, or sale of such appliance or equipment are adopted, used, and kept by the public utility.

(4) Employ in the manufacture, sale, or lease of any such appliance or equipment, the service of any officer or employee engaged in rendering service to the public, unless separate accounts as to the amount

paid to such officer or employee, while engaged in the manufacture, lease or sale of such appliance or equipment, and whether any amount be salary, bonus, commission, or expense are adopted, used, and kept by the public utility.

§ 510. Assessment for regulatory expenses upon public utilities.

(a) Determination of assessment.—Before March 1 of each year, the commission shall estimate its total expenditures in the administration of this part for the fiscal year beginning July of that year, which estimate shall not exceed three-tenths of 1% of the total gross intrastate operating revenues of the public utilities under its jurisdiction for the preceding calendar year. Such estimate shall be submitted to the Governor, and to the appropriation committees of the House and Senate through their respective chairmen, for their respective approvals of such estimate in the amount submitted or such lesser amount as each of them may determine. Unless the Governor, or either committee through its chairman, shall notify the commission in writing of his or its action within 30 days after such submission, the estimate as submitted shall be deemed approved by him or by the committee. The least of the amounts so approved by the three approving authorities shall be the final estimate; and approval of such least amount shall constitute compliance with section 604 of the act of April 9, 1929 (P.L. 177, No. 175), known as “The Administrative Code of 1929.” The commission or its designated representatives shall be afforded an opportunity to appear before the Senate and House Appropriations Committees regarding their estimates. The commission shall subtract from the final estimate:

- (1) the estimated fees to be collected pursuant to section 317 (relating to fees for services rendered by commission); and
- (2) the estimated balance of the appropriation, specified in section 511 (relating to disposition, appropriation and disbursement of assessments and fees), to be carried over into such fiscal year from the preceding one.

The remainder so determined, herein called the total assessment, shall be allocated to, and paid by, such public utilities in the manner prescribed in this part.

(b) Allocation of assessment.—On or before March 31 of each year, every public utility shall file with the commission a statement under oath showing its gross intrastate operating revenues for the preceding calendar year. If any public utility shall fail to file such statement on or before March 31, the commission shall estimate such revenues, which estimate shall be binding upon the public utility for the purposes of this section. For each fiscal year, the allocation shall be made as follows:

- (1) The commission shall determine for the preceding calendar year the amount of its expenditures directly attributable to the regulation of each group of utilities furnishing the same kind of service, and debit the amount so determined to such group.
- (2) The commission shall also determine for the preceding calendar



year the balance of its expenditures, not debited as aforesaid, and allocate such balance to each group in the proportion which the gross intrastate operating revenues of such group for that year bear to the gross intrastate operating revenues of all groups for that year.

(3) The commission shall then allocate the total assessment prescribed by subsection (a) to each group in the proportion which the sum of the debits made to it bears to the sum of the debits made to all groups.

(4) Each public utility within a group shall then be assessed for and shall pay to the commission such proportion of the amount allocated to its group as the gross intrastate operating revenues of the public utility for the preceding calendar year bear to the total gross intrastate operating revenues of its group for that year.

(c) Notice, hearing and payment.—The commission shall give notice by registered or certified mail to each public utility of the amount lawfully charged against it under the provisions of this section, which amount shall be paid by the public utility within 30 days of receipt of such notice, unless the commission specifies on the notices sent to all public utilities an installment plan of payment, in which case each public utility shall pay each installment on or before the date specified therefor by the commission. Within 15 days after receipt of such notice, the public utility against which such assessment has been made may file with the commission objections setting out in detail the grounds upon which the objector regards such assessment to be excessive, erroneous, unlawful or invalid. The commission, after notice to the objector, shall hold a hearing upon such objections. After such hearing, the commission shall record upon its minutes its findings on the objections and shall transmit to the objector, by registered or certified mail, notice of the amount, if any, charged against it in accordance with such findings, which amount or any installment thereof then due, shall be paid by the objector within ten days after receipt of notice of the findings of the commission with respect to such objections. If any payment prescribed by this subsection is not made as aforesaid, the commission may suspend or revoke certificates of public convenience, certify automobile registrations to the Department of Transportation for suspension or revocation or, through the Department of Justice, may institute an appropriate action at law for the amount lawfully assessed, together with any additional cost incurred by the commission or the Department of Justice by virtue of such failure to pay.

(d) Suits by public utilities.—No suit or proceeding shall be maintained in any court for the purpose of restraining or in anywise delaying the collection or payment of any assessment made under subsections (a), (b) and (c), but every public utility against which an assessment is made shall pay the same as provided in subsection (c). Any public utility making any such payment may, at any time within two years from the date of payment, sue the Commonwealth in an action at law to recover the amount paid, or any part thereof, upon the ground that the

assessment was excessive, erroneous, unlawful, or invalid, in whole or in part, provided objections, as hereinbefore provided, were filed with the commission, and payment of the assessment was made under protest either as to all or part thereof. In any action for recovery of any payments made under this section, the claimant shall be entitled to raise every relevant issue of law, but the findings of fact made by the commission, pursuant to this section, shall be prima facie evidence of the facts therein stated. Any records, books, data, documents, and memoranda relating to the expenses of the commission shall be admissible in evidence in any court and shall be prima facie evidence of the truth of their contents. If it is finally determined in any such action that all or any part of the assessment for which payment was made under protest was excessive, erroneous, unlawful, or invalid, the commission shall make a refund to the claimant out of the appropriation specified in section 511 as directed by the court.

(e) Certain provisions not applicable.—The provisions of this part relating to the judicial review of orders and determinations of the commission shall not be applicable to any findings, determinations, or assessments made under this section. The procedure in this section providing for the determination of the lawfulness of assessments and the recovery back of payments made pursuant to such assessment shall be exclusive of all other remedies and procedures.

(f) Intent of section.—It is the intent and purpose of this section that each public utility subject to this part shall advance to the commission its reasonable share of the cost of administering this part. The commission shall keep records of the costs incurred in connection with the administration and enforcement of this part or any other statute. The commission shall also keep a record of the manner in which it shall have computed the amount assessed against every public utility. Such records shall be open to inspection by all interested parties. The determination of such costs and assessments by the commission, and the records and data upon which the same are made, shall be considered prima facie correct; and in any proceeding instituted to challenge the reasonableness or correctness of any assessment under this section, the party challenging the same shall have the burden of proof.

(g) Saving provision.—This section does not affect or repeal any of the provisions of the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law."

§ 511. Disposition, appropriation and disbursement of assessments and fees. .

(a) Payment into General Fund.—All assessments and fees received, collected or recovered under this chapter shall be paid by the commission into the General Fund of the State Treasury through the Department of Revenue.

(b) Use and appropriation of funds.—All such assessments and fees, having been advanced by public utilities for the purpose of defraying the cost of administering this part, shall be held in trust solely for that purpose,

and shall be earmarked for the use of, and are hereby appropriated to, the commission for disbursement solely for that purpose.

(c) Requisition of funds.—All requisitions upon such appropriation shall be signed by the chairman and secretary of the commission, or such deputies as they may designate in writing to the State Treasurer, and shall be presented to the State Treasurer and dealt with by him and the Treasury Department in the manner prescribed by the act of April 9, 1929 (P.L.343, No.176), known as “The Fiscal Code.”

§ 512. Power of commission to require insurance.

The commission may, as to motor carriers, prescribe, by regulation or order, such requirements as it may deem necessary for the protection of persons or property of their patrons and the public, including the filing of surety bonds, the carrying of insurance, or the qualifications and conditions under which such carriers may act as self-insurers with respect to such matters. All motor carriers of passengers, whose current liquid assets do not exceed their current liabilities by at least \$100,000, shall cover each and every vehicle, transporting such passengers, with a public liability insurance policy or a surety bond issued by an insurance carrier or a bonding company authorized to do business in this Commonwealth, in such amounts as the commission may prescribe, but not less than \$5,000 for one and \$10,000 for more than one person injured in any one accident.

§ 513. Public letting of contracts.

Whenever the commission deems that the public interest so requires, it may direct, by regulation or order, that any public utility shall award contracts or agreements for the construction, improvement, or extension, of its plant or system to the lowest responsible bidder, after a public offering has been made, after advertisement and notice. Any such public utility may participate as a bidder in any such public offering. The commission may prescribe regulations relative to such advertisement, notice, and public letting.

## CHAPTER 7 PROCEDURE ON COMPLAINTS

Sec.

701. Complaints.

702. Service of complaints on parties.

703. Fixing of hearings.

§ 701. Complaints.

The commission, or any person, corporation, or municipal corporation having an interest in the subject matter, or any public utility concerned, may complain in writing, setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the commission has jurisdiction to administer, or of any regulation or order of the commission. Any public utility, or other person, or corporation likewise may complain of any regulation or order of the

commission, which the complainant is or has been required by the commission to observe or carry into effect. The Commonwealth through the Attorney General may be a complainant before the commission in any matter solely as an advocate for the Commonwealth as a consumer of public utility services. The commission may prescribe the form of complaints filed under this section.

§ 702. Service of complaints on parties.

Upon the filing of a complaint, the commission shall cause to be served upon each party named in the complaint a copy of the complaint and notice from the commission calling upon such party to satisfy the complaint, or to answer the same in writing, within such time as is specified by the commission in the notice. Service in all hearings, investigations and proceedings pending before the commission shall be made by registered or certified mail.

§ 703. Fixing of hearings.

(a) Satisfaction of complaint or hearing.—If any party complained against, within the time specified by the commission, shall satisfy the complaint, the commission shall dismiss the complaint. Such party shall be relieved from responsibility only for the specific matter complained of. If such party shall not satisfy the complaint within the time specified, and it shall appear to the commission from a consideration of the complaint and answer, or otherwise, that reasonable ground exists for investigating such complaint, it shall be the duty of the commission to fix a time and place for a hearing.

(b) Notice of hearing.—The commission shall fix the time and place of hearing, within or without this Commonwealth, if any is required, and shall serve notice thereof upon parties in interest. The commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest.

(c) Hearing and record.—All hearings before the commission, or its representative, shall be public, and shall be conducted in accordance with such regulations as the commission may prescribe. A full and complete record shall be kept of all proceedings had before the commission, or its representative, on any formal hearing, and all testimony shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney, and to introduce evidence.

(d) Informal hearings.—The commission may, in addition to the hearings specially provided by this part, conduct such other hearings as may be required in the administration of the powers and duties conferred upon it by this part and by other acts relating to public utilities. Reasonable notice of all such hearings shall be given the persons interested therein.

(e) Decisions by commission.—After the conclusion of the hearing, the commission shall make and file its findings and order with its opinion, if any. Its findings shall be in sufficient detail to enable the court on appeal, to determine the controverted question presented by the proceeding, and whether proper weight was given to the evidence. A copy of such order,

certified under the seal of the commission, shall be served by registered or certified mail upon the party or parties against whom it runs, or his attorney, and notice thereof shall be given to the other parties to the proceedings or their attorney. Such order shall take effect and become operative as designated therein, and shall continue in force either for a period which may be designated therein, or until changed or revoked by the commission. The commission may grant and prescribe such additional time as, in its judgment, is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order.

(f) Rehearing.—After an order has been made by the commission, any party to the proceedings may, within 15 days after the service of the order, apply for a rehearing in respect of any matters determined in such proceedings and specified in the application for rehearing, and the commission may grant and hold such rehearing on such matters. No application for a rehearing shall in anywise operate as a supersedeas, or in any manner stay or postpone the enforcement of any existing order, except as the commission may, by order, direct. If the application be granted, the commission may affirm, rescind, or modify its original order.

(g) Rescission and amendment of orders.—The commission may, at any time, after notice and after opportunity to be heard as provided in this chapter, rescind or amend any order made by it. Any order rescinding or amending a prior order shall, when served upon the person, corporation, or municipal corporation affected, and after notice thereof is given to the other parties to the proceedings, have the same effect as is herein provided for original orders.

## CHAPTER 9 JUDICIAL PROCEEDINGS

Sec.

901. Right to trial by jury.

902. Costs on review.

903. Restriction on injunctions.

§ 901. Right to trial by jury.

Nothing in this part shall be construed to deprive any party, upon any judicial review of the proceedings and orders of the commission, of the right to trial by jury of any issue of fact raised thereby or therein, where such right is secured either by the Constitution of Pennsylvania or the Constitution of the United States, but in every such case such right of trial by jury shall remain inviolate. When any judicial review is sought, such right shall be deemed to be waived upon all issues, unless expressly reserved in such manner as shall be prescribed by the court.

§ 902. Costs on review.

The costs resulting from any review may not be imposed on the commission except in cases where the complaint or proceeding was instituted by the commission.

§ 903. Restriction on injunctions.

No injunction shall issue modifying, suspending, staying or annulling any order of the commission, or of a commissioner, except in a proceeding questioning the jurisdiction of the commission and then only after cause shown upon a hearing.

SUBPART C  
REGULATION OF PUBLIC UTILITIES GENERALLY

Chapter

- 11. Certificates of Public Convenience
- 13. Rates and Rate Making
- 15. Service and Facilities
- 17. Accounting and Budgetary Matters
- 19. Securities and Obligations
- 21. Relations with Affiliated Interests

CHAPTER 11  
CERTIFICATES OF PUBLIC CONVENIENCE

Sec.

- 1101. Organization of public utilities and beginning of service.
- 1102. Enumeration of acts requiring certificate.
- 1103. Procedure to obtain certificates of public convenience.
- 1104. Certain appropriations by right of eminent domain prohibited.

§ 1101. Organization of public utilities and beginning of service.

Upon the application of any proposed public utility and the approval of such application by the commission evidenced by its certificate of public convenience first had and obtained, it shall be lawful for any such proposed public utility to begin to offer, render, furnish, or supply service within this Commonwealth. The commission's certificate of public convenience granted under the authority of this section shall include a description of the nature of the service and of the territory in which it may be offered, rendered, furnished or supplied.

§ 1102. Enumeration of acts requiring certificate.

(a) General rule.—Upon the application of any public utility and the approval of such application by the commission, evidenced by its certificate of public convenience first had and obtained, and upon compliance with existing laws, it shall be lawful:

(1) For any public utility to begin to offer, render, furnish or supply within this Commonwealth service of a different nature or to a different territory than that authorized by:

(i) A certificate of public convenience granted under this part or under the former provisions of the act of July 26, 1913 (P.L.1374, No.854), known as "The Public Service Company Law," or the act of May 28, 1937 (P.L.1053, No.286), known as the "Public Utility Law."

(ii) An unregistered right, power or privilege preserved by section 103 (relating to prior rights preserved).

(2) For any public utility to abandon or surrender, in whole or in part, any service, except that this provision is not applicable to discontinuance of service to a patron for nonpayment of a bill, or upon request of a patron.

(3) For any public utility or an affiliated interest of a public utility as defined in section 2101 (relating to definition of affiliated interest), except a common carrier by railroad subject to the Interstate Commerce Act, to acquire from, or to transfer to, any person or corporation, including a municipal corporation, by any method or device whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service. Such approval shall not be required if:

(i) the undepreciated book value of the property to be acquired or transferred does not exceed \$1,000;

(ii) the undepreciated book value of the property to be acquired or transferred does not exceed the lesser of:

(A) 2% of the undepreciated book value of all fixed assets of such public utility; or

(B) \$5,000 in the case of personalty or \$50,000 in the case of realty;

(iii) the property to be acquired is to be installed new as a part of or consumed in the operation of the used and useful property of such public utility; or

(iv) the property to be transferred by such public utility is obsolete, worn out or otherwise unserviceable.

Subparagraphs (i) through (iv) shall not be applicable, and approval of the commission evidenced by a certificate of public convenience shall be required, if any such acquisition or transfer of property involves a transfer of patrons.

(4) For any public utility to acquire 5% or more of the voting capital stock of any corporation.

(5) For any municipal corporation to acquire, construct, or begin to operate, any plant, equipment, or other facilities for the rendering or furnishing to the public of any public utility service beyond its corporate limits.

(b) Protection of railroad employees.—As a condition of its approval of any transaction covered by this section and involving those railroad carriers wholly located within this Commonwealth subject to the provisions of this part, the commission shall require a fair and equitable arrangement to protect the interests of the railroad employees affected and the commission shall include in its order of approval the terms and conditions it deems fair and equitable for the protection of the employees. The terms and conditions which the commission prescribes shall provide that, during the period of four years from the effective date of the order, the employees of the railroad carrier affected by the order shall not be in a

worse position with respect to their employment except that any protection afforded an employee shall not be required to continue for a period longer than that during which the employee was in the employ of the railroad carrier prior to the effective date of the order. Notwithstanding any other provision of this section, the commission may accept as fair and equitable an agreement pertaining to the protection of the interests of the employees entered into by the railroad carrier and the duly authorized representatives of the employees.

§ 1103. Procedure to obtain certificates of public convenience.

(a) General rule.—Every application for a certificate of public convenience shall be made to the commission in writing, be verified by oath or affirmation, and be in such form, and contain such information, as the commission may require by its regulations. A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable. In every case, the commission shall make a finding or determination in writing, stating whether or not its approval is granted. Any holder of a certificate of public convenience, exercising the authority conferred by such certificate, shall be deemed to have waived any and all objections to the terms and conditions of such certificate.

(b) Investigations and hearings.—For the purpose of enabling the commission to make such finding or determination, it shall hold such hearings, which shall be public, and, before or after hearing, it may make such inquiries, physical examinations, valuations, and investigations, and may require such plans, specifications, and estimates of cost, as it may deem necessary or proper in enabling it to reach a finding or determination.

§ 1104. Certain appropriations by right of eminent domain prohibited.

Unless its power of eminent domain existed under prior law, no domestic public utility or foreign public utility authorized to do business in this Commonwealth shall exercise any power of eminent domain within this Commonwealth until it shall have received the certificate of public convenience required by section 1101 (relating to organization of public utilities and beginning of service).

## CHAPTER 13 RATES AND RATE MAKING

Sec.

- 1301. Rates to be just and reasonable.
- 1302. Tariffs; filing and inspection.
- 1303. Adherence to tariffs.
- 1304. Discrimination in rates.
- 1305. Advance payment of rates; interest on deposits.
- 1306. Apportionment of joint rates.



- 1307. Sliding scale of rates; adjustments.
- 1308. Voluntary changes in rates.
- 1309. Rates fixed on complaint; investigation of costs of production.
- 1310. Temporary rates.
- 1311. Valuation of property of a public utility.
- 1312. Refunds.
- 1313. Price upon resale of public utility services.

§ 1301. Rates to be just and reasonable.

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility.

§ 1302. Tariffs; filing and inspection.

Under such regulations as the commission may prescribe, every public utility shall file with the commission, within such time and in such form as the commission may designate, tariffs showing all rates established by it and collected or enforced, or to be collected or enforced, within the jurisdiction of the commission. The tariffs of any public utility also subject to the jurisdiction of a Federal regulatory body shall correspond, so far as practicable, to the form of those prescribed by such Federal regulatory body. Every public utility shall keep copies of such tariffs open to public inspection under such rules and regulations as the commission may prescribe.

§ 1303. Adherence to tariffs.

No public utility shall, directly or indirectly, by any device whatsoever, or in anywise, demand or receive from any person, corporation, or municipal corporation a greater or less rate for any service rendered or to be rendered by such public utility than that specified in the tariffs of such public utility applicable thereto. The rates specified in such tariffs shall be the lawful rates of such public utility until changed, as provided in this part. Any public utility, having more than one rate applicable to service rendered to a patron, shall, after notice of service conditions, compute bills under the rate most advantageous to the patron.

§ 1304. Discrimination in rates.

No public utility shall, as to rates, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, either as between localities or as between classes of service. Unless specifically authorized by the commission, no public utility shall make, demand, or receive any greater rate in the aggregate for the transportation of

passengers or property of the same class, or for the transmission of any message or conversation for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or any greater rate as a through rate than the aggregate of the intermediate rates. This section does not prohibit the establishment of reasonable zone or group systems, or classifications of rates or, in the case of common carriers, the issuance of excursion, commutation, or other special tickets at special rates, or the granting of nontransferable free passes, or passes at a discount to any officer, employee, or pensioner of such common carrier. No rate charged by a municipality for any public utility service rendered or furnished beyond its corporate limits shall be considered unjustly discriminatory solely by reason of the fact that a different rate is charged for a similar service within its corporate limits.

§ 1305. Advance payment of rates; interest on deposits.

No public utility shall require the payment of rates in advance, or the making of minimum payments, ready to serve charges, or deposits to secure future payments of rates, except as the commission, by regulation or order, may permit. Any deposit made by any domestic consumer, under the provisions of this section or under any repealed statute supplied by this part, shall be returned with any interest due thereon to the consumer making such deposit when he shall have paid undisputed bills for service over a period of 12 consecutive months.

§ 1306. Apportionment of joint rates.

Where public utilities entitled to share in any joint rate shall be unable to agree upon the division thereof, or shall make any unjust or unreasonable division or apportionment thereof, the commission may, after hearing, upon its own motion or upon complaint, fix the proportion to which each public utility shall be entitled.

§ 1307. Sliding scale of rates; adjustments.

(a) General rule.—Any public utility, except a common carrier, may establish a sliding scale of rates or such other method for the automatic adjustment of the rates of the public utility as shall provide a just and reasonable return on the fair value of the property used and useful in the public service, to be determined upon such equitable or reasonable basis as shall provide such fair return. A tariff showing the scale of rates under such arrangement shall first be filed with the commission, and such tariff, and each rate set out therein, approved by it. The commission may revoke its approval at any time and fix other rates for any such public utility if, after notice and hearing, the commission finds the existing rates unjust or unreasonable.

(b) Mandatory system for automatic adjustment.—The commission, by regulation or order, upon reasonable notice and after hearing, may prescribe for any class of public utilities, except a common carrier, a mandatory system for the automatic adjustment of their rates, by means of a sliding scale of rates or other method, on the same basis as provided in subsection (a), to become effective when and in the manner prescribed in

such regulation or order. Every such public utility shall, within such time as shall be prescribed by the commission, file tariffs showing the rates established in accordance with such regulation or order.

(c) Fuel cost adjustment.—In any method automatically adjusting rates to reflect changes in fossil fuel cost under this section, the fuel cost used in computing the adjustment shall be limited, in the case of an electric utility, to the cost of such fuel delivered to the utility at the generating site at which it is to be consumed, and the cost of disposing of solid waste from scrubbers or other devices designed so that the consumption of Pennsylvania-mined coal at the generating site would comply with the sulfur oxide emission standards prescribed by the Commonwealth. The cost of fuel handling after such delivery, or of waste disposal, other than as prescribed in this section, shall be excluded from such computation. In any method automatically adjusting rates to reflect changes in fuel cost other than fossil fuel cost under this section, the fuel cost used in computing the adjustment shall be limited, in the case of an electric utility, to the cost of such fuel delivered to the utility at the generating site at which it is to be consumed after deducting therefrom the present salvage or reuse value of such fuel, as shall be established by commission rule or order.

(d) Fuel cost adjustment audits.—The commission shall conduct or cause to be conducted, at such times as it may order, but at least annually, an audit of each public utility which, by any method described in this section, automatically adjusts its rates to reflect changes in its fuel costs, which audit shall enable the commission to determine the propriety and correctness of amounts billed and collected under this section. Whoever performs the audit shall be a person knowledgeable in the subject matter encompassed within the operation of the automatic adjustment clause. The auditors report shall be in a form and manner directed by the commission.

(e) Automatic adjustment reports and proceedings.—

(1) Within 30 days following the end of such 12-month period as the commission shall designate, each public utility using an automatic adjustment clause shall file with the commission a statement which shall specify for such period:

(i) the total revenues received pursuant to the automatic adjustment clause;

(ii) the total amount of that expense or class of expenses incurred which is the basis of the automatic adjustment clause; and

(iii) the difference between the amounts specified by subparagraphs (i) and (ii).

Such report shall be a matter of public record and copies thereof shall be made available to any person upon request to the commission.

(2) Within 60 days following the submission of such report by a public utility, the commission shall hold a public hearing on the substance of the report and any matters pertaining to the use by such public utility of such automatic adjustment clause in the preceding period and may include the present and subsequent periods.

(3) Absent good reason being shown to the contrary, the commission shall, within 60 days following such hearing, by order direct each such public utility to, over an appropriate 12-month period, refund to its patrons an amount equal to that by which its revenues received pursuant to such automatic adjustment clause exceeded the amount of such expense or class of expenses, or recover from its patrons an amount equal to that by which such expense or class of expenses exceeded the revenues received pursuant to such automatic adjustment clause.

(4) For the purpose of this subsection, where a 12-month report period and 12-month refund or recovery period shall have been previously established or designated, nothing in this section shall impair the continued use of such previously established or designated periods nor shall anything in this section prevent the commission from amending at any time any method used by any utility in automatically adjusting its rates, so as to provide the commission more adequate supervision of the administration by a utility of such method and to decrease the likelihood of collection by a utility, in subsequent periods, of amounts greater or less than that to which it is entitled, or, in the event that such deficiency or surplus in collected amounts is found, more prompt readjustment thereof.

§ 1308. Voluntary changes in rates.

(a) General rule.—Unless the commission otherwise orders, no public utility shall make any change in any existing and duly established rate, except after 60 days notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force, and the time when the changed rates will go into effect. The public utility shall also give such notice of the proposed changes to other interested persons as the commission in its discretion may direct. All proposed changes shall be shown by filing new tariffs, or supplements to existing tariffs filed and in force at the time. The commission, for good cause shown, may allow changes in rates, without requiring the 60 days notice, under such conditions as it may prescribe.

(b) Hearing and suspension of rate change.—Whenever there is filed with the commission by any public utility any tariff stating a new rate, the commission may, either upon complaint or upon its own motion, upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, and pending such hearing and the decision thereon, the commission, upon filing with such tariff and delivering to the public utility affected thereby a statement in writing of its reasons therefor, may, at any time before it becomes effective, suspend the operation of such rate for a period not longer than six months from the time such rate would otherwise become effective, and an additional period of not more than three months pending such decision. The rate in force when the tariff stating the new rate was filed shall continue in force during the period of suspension, unless the commission shall establish a temporary rate as authorized in section 1310 (relating to temporary rates). The commission shall consider the effect of

such suspension in finally determining and prescribing the rates to be thereafter charged and collected by such public utility. This subsection shall not apply to any tariff stating a new rate which constitutes a general rate increase as defined in subsection (d).

(c) Determination.—If, after such hearing, the commission finds any such rate to be unjust or unreasonable, or in anywise in violation of law, the commission shall determine the just and reasonable rate to be charged or applied by the public utility for the service in question, and shall fix the same by order to be served upon the public utility and such rate shall thereafter be observed until changed as provided by this part.

(d) General rate increases.—Whenever there is filed with the commission by any public utility described in paragraph (1)(i), (ii), (vi) or (vii) of the definition of “public utility” in section 102 (relating to definitions), and such other public utility as the commission may by rule or regulation direct, any tariff stating a new rate which constitutes a general rate increase, the commission shall promptly enter into an investigation and analysis of said tariff filing and may by order setting forth its reasons therefor, upon complaint or upon its own motion, upon reasonable notice, enter upon a hearing concerning the lawfulness of such rate, and the commission may, at any time by vote of a majority of the members of the commission serving in accordance with law, permit such tariff to become effective, except that absent such order such tariff shall be suspended for a period not to exceed seven months from the time such rate would otherwise become effective. Before the expiration of such seven-month period, a majority of the members of the commission serving in accordance with law, acting unanimously, shall make a final decision and order, setting forth its reasons therefor, granting or denying, in whole or in part, the general rate increase requested. If, however, such an order has not been made at the expiration of such seven-month period, the proposed general rate increase shall go into effect at the end of such period, but the commission may by order require the interested public utility to refund, in accordance with section 1312 (relating to refunds), to the persons in whose behalf such amounts were paid, such portion of such increased rates as by its decision shall be found not justified, plus interest, which shall be the average rate of interest specified for residential mortgage lending by the Secretary of Banking in accordance with the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law, during the period or periods for which the commission orders refunds. The rate in force when the tariff stating such new rate was filed shall continue in force during the period of suspension unless the commission shall grant extraordinary rate relief as prescribed in subsection (e). The commission shall consider the effect of such suspension in finally determining and prescribing the rates to be thereafter charged and collected by such public utility, except that the commission shall have no authority to prescribe, determine or fix, at any time during the pendency of a general rate increase proceeding or prior to a final determination of a general rate increase request, temporary rates as

provided in section 1310, which rates may provide retroactive increases through recoupment. As used in this part general rate increase means a tariff filing which affects more than 5% of the customers and amounts to in excess of 3% of the total gross annual intrastate operating revenues of the public utility. If the public utility furnishes two or more types of service, the foregoing percentages shall be determined only on the basis of the customers receiving, and the revenues derived from, the type of service to which the tariff filing pertains.

(e) Extraordinary rate relief.—Upon petition to the commission at the time of filing of a rate request or at any time during the pendency of proceedings on such rate request, any public utility may seek extraordinary rate relief of such portion of the total rate relief requested as can be shown to be immediately necessary for the maintenance of financial stability in order to enable the utility to continue providing normal services to its customers, avoid reductions in its normal maintenance programs, avoid substantially reducing its employment, and which will provide no more than the rate of return on the utility's common equity established by the commission in consideration of the utility's preceding rate filing, except that no utility shall file, either with a request for a general rate increase or at any time during the pendency of such a request, more than one petition under this subsection pertaining to rates for a particular type of service, nor any supplement or amendment thereto, except when permitted to do so by order of the commission. Any public utility requesting extraordinary rate relief shall file with the petition sufficient additional testimony and exhibits which will permit the commission to make appropriate findings on the petition. The public utility shall give notice of the petition in the same manner as its filing upon which this petition is based. The commission shall within 30 days from the date of the filing of a petition for extraordinary rate relief, and after hearing for the purpose of cross-examination of the testimony and exhibits of the public utility, and the presentation of such other evidentiary testimony as the commission may by rule prescribe, by order setting forth its reasons therefor, grant or deny, in whole or in part, the extraordinary relief requested. Absent such order, the petition shall be deemed to have been denied. Rates established pursuant to extraordinary rate relief shall not be deemed to be temporary rates within the meaning of that term as it is used in section 1310.

§ 1309. Rates fixed on complaint; investigation of costs of production.

Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the existing rates of any public utility for any service are unjust, unreasonable, or in anywise in violation of any provision of law, the commission shall determine the just and reasonable rates, including maximum or minimum rates, to be thereafter observed and in force, and shall fix the same by order to be served upon the public utility, and such rates shall constitute the legal rates of the public utility until changed as provided in this part. Whenever a public utility does not itself produce or generate that which it distributes, transmits, or

furnishes to the public for compensation, but obtains the same from another source, the commission shall have the power and authority to investigate the cost of such production or generation in any investigation of the reasonableness of the rates of such public utility.

§ 1310. Temporary rates.

(a) General rule.—The commission may, in any proceeding involving the rates of a public utility, except a proceeding involving a general rate increase, brought either upon its own motion or upon complaint, after reasonable notice and hearing, if it be of opinion that the public interest so requires, immediately fix, determine, and prescribe temporary rates to be charged by such public utility, pending the final determination of such rate proceeding. Such temporary rates, so fixed, determined, and prescribed, shall be sufficient to provide a return of not less than 5% upon the original cost, less accrued depreciation, of the physical property, when first devoted to public use, of such public utility, used and useful in the public service, and if the duly verified reports of such public utility to the commission do not show such original cost, less accrued depreciation, of such property, the commission may estimate such cost less depreciation and fix, determine, and prescribe rates as hereinbefore provided.

(b) Exception where records unavailable.—If any public utility does not have continuing property records, kept in the manner prescribed by the commission under the provisions of section 1702 (relating to continuing property records), then the commission, after reasonable notice and hearing, may establish temporary rates which shall be sufficient to provide a return of not less than an amount equal to the operating income for such prior calendar, fiscal or other year as the commission may deem proper, to be determined on the basis of data appearing in the annual report of such public utility to the commission for such prior year as the commission may deem proper, plus or minus such return as the commission may prescribe from time to time upon such net changes of the physical property as are reported to and approved for rate-making purposes by the commission. In determining the net changes of the physical property, the commission may, in its discretion, deduct from gross additions to such physical property the amount charged to operating expenses for depreciation or, in lieu thereof, it may determine such net changes by deducting retirements from the gross additions. The commission, in determining the basis for temporary rates, may make such adjustments in the annual report data as may, in the judgment of the commission, be necessary and proper.

(c) Periodicity of rates.—The commission may fix, determine, and prescribe temporary rates every month, or at any other interval, if it be of opinion that the public interest so requires, and the existence of proceedings begun for the purpose of establishing final rates shall not prevent the commission from changing every month, or at any other interval, such temporary rates as it has previously fixed, determined, and prescribed.

(d) Excessive rates.—Whenever the commission, upon examination of

any annual or other report, or of any papers, records, books, or documents, or of the property of any public utility, shall be of opinion that any rates of such public utility are producing a return in excess of a fair return upon the fair value of the property of such public utility, used and useful in its public service, the commission may, by order, prescribe for a trial period of at least six months, which trial period may be extended for one additional period of six months, such temporary rates to be observed by such public utility as, in the opinion of the commission, will produce a fair return upon such fair value, and the rates so prescribed shall become effective upon the date specified in the order of the commission. Such rates, so prescribed, shall become permanent at the end of such trial period, or extension thereof, unless at any time during such trial period, or extension thereof, the public utility involved shall complain to the commission that the rates so prescribed are unjust or unreasonable. Upon such complaint, the commission, after hearing, shall determine the issues involved, and pending final determination the rates so prescribed shall remain in effect.

(e) Effect and adjustment of rates.—Temporary rates so fixed, determined, and prescribed under this section shall be effective until the final determination of the rate proceeding, unless terminated sooner by the commission. In every proceeding in which temporary rates are fixed, determined, and prescribed under this section, the commission shall consider the effect of such rates in fixing, determining, and prescribing rates to be thereafter demanded or received by such public utility on final determination of the rate proceeding.

#### § 1311. Valuation of property of a public utility.

The commission may, after reasonable notice and hearing, ascertain and fix the fair value of the whole or any part of the property of any public utility, insofar as the same is material to the exercise of the jurisdiction of the commission, and may make revaluations from time to time and ascertain the fair value of all new construction, extensions, and additions to the property of any public utility. When any public utility furnishes more than one of the different types of utility service, the commission shall segregate the property used and useful in furnishing each type of such service, and shall not consider the property of such public utility as a unit in determining the value of the property of such public utility for the purpose of fixing rates. In fixing any rate of a public utility engaged exclusively as a common carrier by motor vehicle, the commission may, in lieu of other standards established by law, fix the fair return by relating the fair and reasonable operating expenses, depreciation, taxes and other costs of furnishing service to operating revenues.

#### § 1312. Refunds.

(a) General rule.—If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the commission shall have the



power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within four years prior to the date of the filing of the complaint, together with interest at the legal rate from the date of each such excessive payment. In making a determination under this section, the commission need not find that the rate complained of was extortionate or oppressive. Any order of the commission awarding a refund shall be made for and on behalf of all patrons subject to the same rate of the public utility. The commission shall state in any refund order the exact amount to be paid, the reasonable time within which payment shall be made, and shall make findings upon pertinent questions of fact.

(b) Suit for refund.—If the public utility fails to make refunds within the time for payment fixed by any final order of the commission or court, any patron entitled to any refund may sue therefor and the findings and order made by the commission shall be prima facie evidence of the facts therein stated, and that the amount awarded is justly due the plaintiff in such suit, and the defendant public utility shall not be permitted to avail itself of the defense that the service was, in fact, rendered to the plaintiff at the rate contained in its tariffs in force at the time payment was made and received, nor shall the defendant public utility be permitted to avail itself of the defense that the rate was reasonable. Any patron entitled to any refund shall be entitled to recover, in addition to the amount of refund, a penalty of 50% of the amount of such refund, together with all court costs and reasonable attorney fees. No suit may be maintained for a refund unless instituted within one year from the date of the order of the commission or court. Any number of patrons entitled to such refund may join as plaintiffs and recover their several claims in a single action, in which action the court shall render a judgment severally for each plaintiff as his interest may appear.

(c) Condition for suit.—No action shall be brought in any court for a refund, unless and until the commission shall have determined that the rate in question was unjust or unreasonable, or in violation of any regulation or order of the commission, or in excess of the applicable rate contained in an existing and effective tariff, and then only to recover such refunds as may have been awarded and directed to be paid by the commission in such order.

§ 1313. Price upon resale of public utility services.

Whenever any person, corporation or other entity, not a public utility, electric cooperative corporation, municipality authority or municipal corporation, purchases service from a public utility and resells it to consumers, the bill rendered by the reseller to any residential consumer shall not exceed the amount which the public utility would bill its own residential consumers for the same quantity of service under the residential rate of its tariff then currently in effect.

**CHAPTER 15**  
**SERVICE AND FACILITIES**

Sec.

- 1501. Character of service and facilities.
- 1502. Discrimination in service.
- 1503. Discontinuance of service.
- 1504. Standards of service and facilities.
- 1505. Proper service and facilities established on complaint.
- 1506. Copies of service contracts, etc., to be filed with commission.
- 1507. Testing of appliances for measurement of service.
- 1508. Reports of accidents.
- 1509. Billing procedures.

**§ 1501. Character of service and facilities.**

Every public utility shall furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and shall make all such repairs, changes, alterations, substitutions, extensions, and improvements in or to such service and facilities as shall be necessary or proper for the accommodation, convenience, and safety of its patrons, employees, and the public. Such service also shall be reasonably continuous and without unreasonable interruptions or delay. Such service and facilities shall be in conformity with the regulations and orders of the commission. Subject to the provisions of this part and the regulations or orders of the commission, every public utility may have reasonable rules and regulations governing the conditions under which it shall be required to render service. Any public utility service being furnished or rendered by a municipal corporation beyond its corporate limits shall be subject to regulation and control by the commission as to service and extensions, with the same force and in like manner as if such service were rendered by a public utility. The commission shall have sole and exclusive jurisdiction to promulgate rules and regulations for the allocation of natural or artificial gas supply by a public utility.

**§ 1502. Discrimination in service.**

No public utility shall, as to service, make or grant any unreasonable preference or advantage to any person, corporation, or municipal corporation, or subject any person, corporation, or municipal corporation to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to service, either as between localities or as between classes of service, but this section does not prohibit the establishment of reasonable classifications of service.

**§ 1503. Discontinuance of service.**

(a) Days discontinuance prohibited.—Except when required to prevent or alleviate an emergency as defined by the commission, except in the case of danger to life or property, no public utility, as defined in paragraph (1)(i), (ii), (v) or (vii) of the definition of “public utility” in section 102 (relating to definitions), shall discontinue, and the commission

shall not authorize such a public utility to discontinue, except upon request of the customer, for nonpayment of charges or for any other reason, the rendering of service during the following periods:

- (1) On Friday, Saturday or Sunday.
- (2) On a bank holiday or on the day preceding a bank holiday.
- (3) On a holiday observed by the public utility or on the day preceding such holiday. A holiday observed by a public utility shall mean any day on which the business office of the public utility is closed to observe a legal holiday, to attend public utility meetings or functions or for any other reason.
- (4) On a holiday observed by the commission or on the day preceding such holiday.

(b) Personal contact before service discontinued.—Except when required to prevent or alleviate an emergency as defined by the commission or except in the case of danger to life or property, no public utility referred to in subsection (a) shall discontinue, and the commission shall not authorize such a public utility to discontinue, except upon request of a customer, for nonpayment of charges or for any other reason, the rendering of service without personally contacting the customer at least three days prior to such discontinuance, in addition to any written notice of discontinuance of service. Personal contact shall mean:

- (1) contacting the customer by means other than writing; or
- (2) contacting another person whom the customer has designated to receive a copy of any notice of disconnection; or
- (3) if the customer has not made such designation, contacting a community interest group or other entity, including local police departments, which have previously agreed to receive a copy of the notice of disconnection and to attempt to contact the customer; or
- (4) if the customer has not made such designation and no such community interest group or other entity has previously agreed to receive a copy of the notice of disconnection, contacting the commission or such other local government unit as the commission shall, by rule or regulation, designate.

§ 1504. Standards of service and facilities.

The commission may, after reasonable notice and hearing, upon its own motion or upon complaint:

- (1) Prescribe as to service and facilities, including the crossing of facilities, just and reasonable standards, classifications, regulations and practices to be furnished, imposed, observed and followed by any or all public utilities.
- (2) Prescribe adequate and reasonable standards for the measurement of quantity, quality, pressure, initial voltage or other condition pertaining to the supply of the service of any and all public utilities.
- (3) Prescribe reasonable regulations for the examination and testing of such service, and for the measurement thereof.

(4) Prescribe or approve reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for measurement.

(5) Provide for the examination and testing of any and all appliances used for the measurement of any service of any public utility.

§ 1505. Proper service and facilities established on complaint.

Whenever the commission, after reasonable notice and hearing, upon its own motion or upon complaint, finds that the service or facilities of any public utility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this part, the commission shall determine and prescribe, by regulation or order, the reasonable, safe, adequate, sufficient, service or facilities to be observed, furnished, enforced, or employed, including all such repairs, changes, alterations, extensions, substitutions, or improvements in facilities as shall be reasonably necessary and proper for the safety, accommodation, and convenience of the public.

§ 1506. Copies of service contracts, etc., to be filed with commission.

Any public utility shall, when required by the commission, file with the commission verified copies of any and all contracts, writings, agreements, leases, arrangements, or other engagements, in relation to its public service, entered into by such public utility with any person, corporation, State Government, or the Federal Government, or any branch or subdivision thereof, or any other public utility.

§ 1507. Testing of appliances for measurement of service.

Every public utility, furnishing service upon meter or other similar measurement, shall provide, and keep in and upon the premises of such public utility, suitable and proper apparatus, to be approved from time to time and stamped or marked by the commission, for testing and proving the accuracy of meters furnished by such public utility for use; and by which apparatus every meter may be tested, upon the written request of the consumer to whom the same shall be furnished, and in the presence of the consumer, if he shall so desire. If the meter so tested shall be found to be accurate, within such commercially reasonable limits as the commission may fix for such meters, a reasonable fee, to be fixed by the commission, sufficient to cover the cost of such test, shall be paid by the consumer requiring such test; but, if not so found, then the cost thereof shall be borne by the public utility furnishing the meter.

§ 1508. Reports of accidents.

Every public utility shall give immediate notice to the commission of the happening of any accident in or about, or in connection with, the operation of its service and facilities, wherein any person shall have been killed or injured, and furnish such full and detailed report of such accident, within such time and in such manner as the commission shall require. Such report shall not be open for public inspection, except by order of the commission, and shall not be admitted in evidence for any purpose in any suit or action for damages growing out of any matter or thing mentioned in such report.

§ 1509. Billing procedures.

All bills rendered by a public utility as defined in paragraph (1)(i), (ii), (vi) or (vii) of the definition of "public utility" in section 102 (relating to definitions) to its service customers, except bills for installation charges, shall allow at least 15 days for nonresidential customers and 20 days for residential customers from the date of transmittal of the bill for payment without incurring any late payment penalty charges therefor. All customers shall be permitted to receive bills monthly and shall be notified of their right thereto. All bills shall be itemized to separately show amounts for basic service, Federal excise taxes, applicable State sales and gross receipts taxes, to the extent practicable, fuel adjustment charge, if any, State tax adjustment charge or such other similar components of the total bill as the commission may order. Any electric or gas public utility billing customers on a bimonthly or quarterly basis and rendering interim statements or bills each month shall include in such interim statement or bill an amount for the fuel adjustment charge based upon one-half of the total expected bimonthly kilowatt hour or cubic foot billing or one-third of the total expected quarterly billing and using the fuel adjustment charge rate applicable in the month of the interim statement or bill. At the time of preparing the bimonthly or quarterly bill, an appropriate adjustment shall be made in the total fuel adjustment charge billing for the period. Any public utility rendering bills on a bimonthly basis or quarterly basis shall calculate the fuel adjustment charge per kilowatt hour or cubic foot for the entire period as the weighted average of the two monthly rates or the three monthly rates whichever is applicable.

CHAPTER 17  
ACCOUNTING AND BUDGETARY MATTERS

Sec.

- 1701. Mandatory systems of accounts.
- 1702. Continuing property records.
- 1703. Depreciation accounts; reports.
- 1704. Records and accounts to be kept in Commonwealth.
- 1705. Budgets of public utilities.
- 1706. Applicability to municipal corporations.

§ 1701. Mandatory systems of accounts.

The commission may, after reasonable notice and hearing, establish systems of accounts, including cost finding procedures, to be kept by public utilities, or may classify public utilities and establish a system of accounts for each class, and prescribe the manner and form in which such accounts shall be kept. Every public utility shall establish such systems of accounting, and shall keep such accounts in the manner and form required by the commission. The accounting system of any public utility also subject to the jurisdiction of a Federal regulatory body shall correspond, as far as practicable, to the system prescribed by such Federal regulatory body. The

commission may require any such public utility to keep and maintain supplemental or additional accounts to those required by any such regulatory body.

§ 1702. Continuing property records.

The commission may require any public utility to establish, provide, and maintain as a part of its system of accounts, continuing property records, including a list or inventory of all the units of tangible property used or useful in the public service, showing the current location of such property units by definite reference to the specific land parcels upon which such units are located or stored. The commission may require any public utility to keep accounts and records in such manner as to show, currently, the original cost of such property when first devoted to the public service, and the reserve accumulated to provide for the depreciation thereof.

§ 1703. Depreciation accounts; reports.

(a) Accounts.—Every public utility shall carry on its books or records of account, proper and reasonable sums representing the annual depreciation on its property used or useful in the public service, which sums shall be based upon the average estimated life of each of the several units or classes of depreciable property. The commission, by appropriate order, after hearing, shall, except where found to be inappropriate, establish for each class of public utilities, the units of depreciable property, the loss upon the retirement of which shall be charged to the depreciation reserve.

(b) Statements.—Every public utility shall file with the commission, at such times and in such form as the commission may prescribe, statements setting forth the details supporting its computation of annual depreciation, as recorded on the books or records of accounts of the public utility. If the commission, upon review of such statements, is of the opinion that the amount of annual depreciation so recorded by any public utility is not reasonable and proper, it may, after hearing, require that provision be made for annual depreciation in such sums as may be found by it to be reasonable and proper. In making its findings, the commission shall give consideration to the experience of the public utility, and the predecessors of the public utility in accumulating depreciation reserves, the retirements actually made, and such other factors as may be deemed relevant.

(c) Use of estimates.—The commission shall not be bound in rate proceedings to accept, as just and reasonable for rate-making purposes, estimates of annual depreciation established under the provisions of this section, but in such rate proceedings it shall give consideration to statements submitted under this section, in addition to such other factors as may be relevant.

§ 1704. Records and accounts to be kept in Commonwealth.

(a) General rule.—Every public utility shall keep such books, accounts, papers, records, and memoranda, as shall be required by the commission, in an office within this Commonwealth, and shall not remove the same, or any of them, from this Commonwealth, except upon such terms and conditions as may be prescribed by the commission.

(b) Exceptions.—This section does not apply to a public utility of another state, engaged in interstate commerce, whose accounts are kept at its principal place of business without this Commonwealth, in the manner prescribed by any Federal regulatory body. Such public utility, when required by the commission, shall furnish to the commission, within such reasonable time as it shall fix, certified copies of its books, accounts, papers, records, and memoranda relating to the business done by such public utility within this Commonwealth.

§ 1705. Budgets of public utilities.

(a) Proposed budgets; adjustments; determination.—The commission may, by regulation, require any class of public utilities, except common carriers, to file proposed budgets with the commission on or before the first day of each budgetary period, showing the amount of money which each public utility within such class, will in its judgment, expend during the budgetary period for payment of salaries of executive officers, donations, advertising, lobbying expenses, entertainment, political contributions, expenditures, and major contracts for the sale or purchase of facilities, and all items covering or contemplating any payment to any affiliated interest for advice, auditing, associating, sponsoring, engineering, managing, operating, financing, legal, or other services. Adjustments or additions to any such budget may be made from time to time by filing supplementary budgets with the commission. When any such budget or supplemental budget has been filed, the commission may examine into and investigate the same to determine whether any or all of the contemplated expenditures are unreasonable or contrary to the public interest and if after reasonable notice and hearing, it shall so determine, it shall make its findings and order in writing rejecting the same or any part thereof.

(b) Rejected budgets.—Upon such rejection, the public utility concerned shall not make further expenditures or payments under the budget or part thereof rejected, and no expenditures at any time made under such rejected budget, or part thereof, shall be allowed as an operating expense, or capital expenditure in any rate or valuation proceeding, or in any other proceeding or hearing before the commission, unless and until the propriety thereof shall have been established to the satisfaction of the commission, and any such finding or order shall remain in full force and effect, unless and until such finding or order shall be vacated, modified or set aside by the commission, or upon an appeal, as provided in this part.

(c) Use of budgets.—The filing of any budget, its examination, investigation, or determination by the commission, under this section, shall not bar or estop the commission from determining, in any rate valuation or other proceeding, whether any or all of the expenditures made under any budget or supplemental budget are reasonable or commensurate with the service or facilities received.

§ 1706. Applicability to municipal corporations.

The provisions of sections 505 (relating to duty to furnish information to

commission; cooperation in valuing property), 506 (relating to inspection of facilities and records), 1701 (relating to mandatory systems of accounts) and 1703 (relating to depreciation accounts; reports), shall apply to any municipal corporation rendering or furnishing to the public any public utility service.

## CHAPTER 19 SECURITIES AND OBLIGATIONS

Sec.

1901. Registration of securities to be issued or assumed.

1902. Contents of securities certificates.

1903. Registration or rejection of securities certificates.

1904. Unauthorized securities may be declared void.

§ 1901. Registration of securities to be issued or assumed.

(a) General rule.—Under such regulations as the commission may prescribe, every public utility, before it shall issue or assume securities, shall file with the commission and receive from it, notice of registration of a document to be known as a securities certificate.

(b) Issuance of securities defined.—Issuance of securities includes any act of a public utility executing, causing to be authenticated, delivering or making any change or extension in any term, condition or date of, any stock certificate, or other evidence of equitable interest in itself or any bond, note, trust certificate or other evidence of indebtedness of itself. Issuance of securities does not include the execution, authentication or delivery of the following:

(1) Securities to replace identical securities lost, mutilated or destroyed while in the ownership of a bona fide holder-for-value who properly indemnifies the public utility therefor.

(2) Securities in exchange for the surrender of identical securities, solely for the purpose of registering or facilitating changes in the ownership thereof between bona fide holders-for-value, which surrendered securities are thereupon cancelled.

(3) Securities from the treasury of the public utility previously reacquired from bona fide holders-for-value and held alive.

(4) Any evidence of indebtedness, the date of maturity of which is at a period of less than one year from the date of its execution.

(5) Any evidence of indebtedness for which no date of maturity is fixed but which matures upon demand of the holder.

(6) Any evidence of indebtedness in the nature of a contract between a public utility and a vendor of equipment wherein the public utility promises to pay installments upon the purchase price of equipment acquired and which is not in the form of an equipment trust certificate or similar instrument readily marketable to the general public.

(c) Assumption of securities defined.—Assumption of securities includes any act of a public utility assuming primary or contingent liability



for the payment of any dividends upon any stocks or of any principal or interest of any indebtedness, created or incurred by any other person or corporation. Assumption of securities does not include the acquisition of all property of the issuing company by the assuming company as provided in section 1102(3) (relating to enumeration of acts requiring certificate) if the approval of the commission is obtained.

§ 1902. Contents of securities certificates.

Every securities certificate shall be verified by oath or affirmation, and shall be in such form, and contain such information pertinent to a proposed issuance or assumption of securities, as the commission may require by its regulations. If two or more issues of securities are proposed to be issued or assumed by a public utility, a separate securities certificate shall be submitted to the commission for the issuance or assumption of each security issue. All information submitted to the commission or obtained through investigation or hearing shall become a part of the securities certificate.

§ 1903. Registration or rejection of securities certificates.

(a) General rule.—Upon the submission or completion of any securities certificate, as provided in this part, the commission shall register the same if it shall find that the issuance or assumption of securities in the amount, of the character, and for the purpose therein proposed, is necessary or proper for the present and probable future capital needs of the public utility filing such securities certificate; otherwise it shall reject the securities certificate. The commission may consider the relation which the amount of each class of securities issued by such public utility bears to the amount of other such classes, the nature of the business of such public utility, its credit and prospects, and other relevant matters. If, at the end of 30 days after the filing of a securities certificate, no order of rejection has been entered, such certificate shall be deemed, in fact and law, to have been registered. The commission may, by written order, giving reasons therefor, extend the 30-day consideration period.

(b) Effect of registration.—Such registration or rejection may be as to all or part of the securities to which such securities certificate pertains, and any registration may be made subject to such conditions as the commission may deem reasonable in the premises. No registration, however, shall be construed to imply any guaranty or obligation on the part of the Commonwealth as to such securities, nor shall it be taken as requiring the commission, in any proceeding brought before it for any purpose, to fix a valuation which shall be equal to the total of such securities and any other outstanding securities of such public utility, or to approve or prescribe a rate which shall be sufficient to yield a return on such securities or the total securities of such public utility.

(c) Written notice.—Written notice of the registration or rejection of any securities certificate shall be served by registered mail upon the public utility. Every notice of rejection shall contain a statement of the specific reasons for rejection. Both registered and rejected securities certificates shall be retained in the files of the commission.

(d) Amendment of rejected certificate.—At any time within 30 days after the commission shall have rejected a securities certificate, the public utility submitting such securities certificate may submit amendments thereto, verified by oath or affirmation, whereupon the commission shall again consider and act upon the securities certificate, as provided in subsection (a); but a securities certificate which shall have been twice rejected by the commission shall not be amended again. The registration by the commission of a securities certificate, either as completed or amended, shall bind the public utility submitting such securities certificate to issue or assume the securities only under the terms, and for the purpose recited in such securities certificate and the issuance or assumption of the securities under any other terms, or for any other purpose, shall be unlawful.

(e) Judicial review.—Appeals from the action of the commission upon any securities certificates may be taken as provided by law. The completed securities certificate shall constitute the record to be certified to the appellate court in such appeal.

§ 1904. Unauthorized securities may be declared void.

In addition to any other penalty provided in this part for any violation of this chapter, the commission, after due consideration of the public interest, may declare void any securities issued, or any assumption of securities made in violation of this chapter. Any such declaration shall not be construed as a bar to the recovery, by an innocent holder-for-value of such securities, of any losses sustained by reason of the wrongful acts of the issuing or assuming public utility.

## CHAPTER 21 RELATIONS WITH AFFILIATED INTERESTS

Sec.

- 2101. Definition of affiliated interest.
- 2102. Approval of contracts with affiliated interests.
- 2103. Continuing supervision and jurisdiction over contracts.
- 2104. Contracts to be in writing; cost data.
- 2105. Contracts in violation of part void.
- 2106. Effect on rates.
- 2107. Federal regulatory agencies.

§ 2101. Definition of affiliated interest.

(a) General rule.—As used in this part “affiliated interest” with a public utility means and includes the following:

- (1) Every corporation and person owning or holding directly or indirectly 5% or more of the voting securities of such public utility.
- (2) Every corporation and person in any chain of successive ownership of 5% or more of voting securities.
- (3) Every corporation 5% or more of whose voting securities are owned by any person or corporation owning 5% or more of the voting securities of such public utility or by any person or corporation in any such chain of successive ownership of 5% or more of voting securities.

(4) Every person who is an officer or director of such public utility or of any corporation in any chain of successive ownership of 5% or more of voting securities.

(5) Every corporation operating a public utility or a servicing organization for furnishing supervisory, construction, engineering, accounting, legal and similar services to utilities, which has one or more officers or one or more directors in common with such public utility, to every other corporation which has directors in common with such public utility where the number of such directors is more than one-third of the total number of the utility's directors.

(6) Every corporation or person which the commission may determine as a matter of fact after investigation and hearing is actually exercising any substantial influence over the policies and actions of such public utility even though such influence is not based upon stockholding, stockholders, directors or officers to the extent specified in this section. As used in this part substantial influence means any corporation or person which or who stands in such relationship to the public utility that there is an absence of free and equal bargaining power between it or him and the public utility.

(7) Every person or corporation who or which the commission may determine as a matter of fact after investigation and hearing is actually exercising such substantial influence over the policies and actions of such public utility in conjunction with one or more other corporations or persons, or both, with which or whom they are related by ownership or blood relationship, or both, or by action in concert that together they are affiliated with such public utility within the meaning of this section even though no one of them alone is so affiliated.

(b) Construction of section.—The term “person” shall not be construed to exclude trustees, lessees, holders of beneficial equitable interest, voluntary associations, receivers and partnerships.

§ 2102. Approval of contracts with affiliated interests.

(a) General rule.—No contract or arrangement providing for the furnishing of management, supervisory, construction, engineering, accounting, legal, financial, or similar services, and no contract or arrangement for the purchase, sale, lease, or exchange of any property, right, or thing or for the furnishing of any service, property, right or thing other than those above enumerated, made or entered into after the effective date of this section between a public utility and any affiliated interest shall be valid or effective unless and until such contract or arrangement has received the written approval of the commission. If such contract is oral, a complete statement of the terms and conditions thereof shall be filed with the commission and subject to its approval.

(b) Filing and action on contract.—It shall be the duty of every public utility to file with the commission a verified copy of any such contract or arrangement, or a verified summary as described in subsection (a) of any such unwritten contract or arrangement. All such contracts and

arrangements, whether written or unwritten, entered into prior to the effective date of this section and required to be on file with the commission by prior act and in full force and effect at the effective date of this section shall be subject to the provisions of the sections regarding affiliated interests. The commission shall approve such contract or arrangement made or entered into after the effective date of this section only if it shall clearly appear and be established upon investigation that it is reasonable and consistent with the public interest. If at the end of 30 days after the filing of a contract or arrangement, no order of rejection has been entered, such contract or arrangement, whether written or unwritten, shall be deemed, in fact and law, to have been approved. The commission may, by written order, giving reasons therefor, extend the 30-day consideration period. No such contract or arrangement shall receive the commission's approval unless satisfactory proof is submitted to the commission of the cost to the affiliated interest of rendering the services or of furnishing the property or service described herein to the public utility. No proof shall be satisfactory within the meaning of the foregoing sentence unless it includes the original (or verified copies) of the relevant cost records and other relevant accounts of the affiliated interest, or such abstract thereof or summary taken therefrom as the commission may deem adequate, properly identified and duly authenticated. The commission may, where reasonable, approve or disapprove such contracts or arrangements without the submission of such cost records or accounts.

(c) Disallowance of excessive amounts.—If the commission shall determine that the amounts paid or payable under a contract or arrangement filed in accordance with this section are in excess of the reasonable price for furnishing the services provided for in the contract, or that such services are not reasonably necessary and proper, it shall disallow such amounts, insofar as found excessive, in any proceeding involving the rates or practices of the public utility. In any proceeding involving such amounts, the burden of proof to show that such amounts are not in excess of the reasonable price for furnishing such services, and that such services are reasonable and proper, shall be on the public utility.

(d) Exceptions.—The provisions requiring the written approval of the commission shall not apply to transactions with affiliated interests of any common carrier by railroad or motor vehicle that is subject to the Interstate Commerce Act unless required by order of the commission, nor where the amount of consideration involved is not in excess of \$10,000 or 5% of the par value of outstanding common stock, whichever is smaller. Regularly recurring payments under a general or continuing arrangement which aggregate a greater annual amount shall not be broken down into a series of transactions to come within this exemption. Where the commission has given its approval generally as to a class or category of transactions, the commission may apply such approval to all subsidiary or related transactions. Such transactions shall be valid or effective without commission approval under this section. However, in any proceeding

involving the rates or practices of the public utility, the commission may disallow any payment or compensation made pursuant to such transaction unless the public utility shall establish the reasonableness of such payment or compensation.

§ 2103. Continuing supervision and jurisdiction over contracts.

The commission shall have continuing supervisory control over the terms and conditions of contracts and arrangements as described in section 2102 (relating to approval of contracts with affiliated interests) so far as necessary to protect and promote the public interest. The commission shall have the same jurisdiction over the modifications or amendment of contracts or arrangements as it has over such original contracts and arrangements. The fact that the commission shall have approved entry into such contracts or arrangements shall not preclude disallowance or disapproval of payments made pursuant thereto, if upon actual experience under such contract or arrangement it appears that the payments provided for or made were or are unreasonable.

§ 2104. Contracts to be in writing; cost data.

The commission may, by regulation or order, require any contract with an affiliated interest to be in writing. The commission may also, by regulation or order, require that any contract with an affiliated interest shall contain a provision whereby the affiliated interest shall agree to furnish to the public utility, at the time of billing such public utility for any service, property, security, right, or thing, under such contract, a detailed statement of the cost to the affiliated interest of such service, property, security, right, or thing.

§ 2105. Contracts in violation of part void.

Every contract with an affiliated interest, made effective or modified in violation of any provision of this part, or of any regulation or order of the commission made under this part, shall be void; and any purchase, sale, payment, lease, loan, or exchange of any service, property, money, security, right, or thing under such contract, or under any contract with an affiliated interest, the terms of which shall have been breached by the affiliated interest, shall be unlawful.

§ 2106. Effect on rates.

In any proceeding, upon the commission's own motion, or upon application or complaint, involving rates or practices of any public utility, the commission may disallow, in whole or in part, any payment or compensation to an affiliated interest for any services rendered or property or service furnished, or any property, right, or thing received by such public utility, or donation given or received, under existing contracts or arrangements with such affiliated interest unless such public utility shall establish the reasonableness thereof. In such proceeding no payment shall be approved or allowed by the commission, in whole or in part, unless satisfactory proof is submitted to the commission of the cost to the affiliated interest of rendering the service or furnishing the service, property, security, right or thing to the public utility. No proof shall be

satisfactory, within the meaning of the foregoing sentence, unless it includes the original (or verified copies) of the relevant cost records and other relevant accounts of the affiliated interest, or such abstract thereof or summary taken therefrom as the commission may deem adequate, properly identified and duly authenticated. The commission may, where reasonable, approve or disapprove such contracts or arrangements without the submission of such cost records or accounts.

§ 2107. Federal regulatory agencies.

The provisions of this chapter shall not be applicable to the rates and related terms and conditions for the interstate transmission of electricity, natural gas, liquified natural gas, substitute natural gas, liquified propane gas or naphtha which have been submitted to and approved by a Federal regulatory agency having jurisdiction thereof, except that the commission may regulate the volume of such purchases.

#### SUBPART D SPECIAL PROVISIONS RELATING TO REGULATION OF PUBLIC UTILITIES

##### Chapter

- 23. Common Carriers
- 25. Contract Carrier by Motor Vehicle and Broker
- 27. Railroads
- 29. Telephone and Telegraph Wires

#### CHAPTER 23 COMMON CARRIERS

##### Sec.

- 2301. Operation and distribution of facilities of common carriers.
- 2302. Transfers and time schedules of common carriers.
- 2303. Common carrier connections with other lines.
- 2304. Liability of common carriers for damages to property in transit; bills of lading.
- 2305. Full crews.

§ 2301. Operation and distribution of facilities of common carriers.

Every common carrier shall furnish a reasonably sufficient number of safe facilities, and run and operate the same with such motive power as may reasonably be required, in the transportation of all such passengers or property as may seek, or be offered to it, for such transportation, and shall operate its facilities with sufficient frequency, at such reasonable and proper times, and to and from such stations or points, as the commission, having regard to the accommodation, convenience, and safety of the public, may require; and, when required by the commission, shall change the time schedule for the operation of its facilities, and, generally, shall make any other arrangements and improvements in its service which the commission may require. If, at any particular time, a common carrier may

not have sufficient facilities to meet the requirements for the transportation of property, then it shall lawfully distribute all available facilities among the several applicants therefor without discrimination between shippers, localities, or competitive or noncompetitive points, in accordance with such regulations as the commission may prescribe. Such regulations, in the case of common carriers also engaged in interstate commerce, shall conform so far as practicable to those prescribed by any Federal regulatory body on the subject. Preference may always be given in the supply of facilities for transportation of fuel, livestock, or perishable matter.

§ 2302. Transfers and time schedules of common carriers.

Whenever the commission shall, after hearing had upon its own motion or upon complaint, deem it necessary or proper for the accommodation, convenience, and safety of the public in the transportation of passengers, every common carrier shall transfer such passengers to or from another part of the system of such common carrier and, to this end, shall make proper and convenient arrangement or adjustment of the time schedules of such common carrier, and shall also make such proper and convenient arrangement or adjustment of the time schedules of such common carrier with those of like adjustment of the time schedules of such common carrier with those of like, contiguous, or connecting common carriers, as the commission shall deem necessary or proper for the accommodation, convenience, and safety of the public.

§ 2303. Common carrier connections with other lines.

(a) General rule.—Every common carrier shall construct and maintain, whenever the commission may, after hearing had upon its own motion or upon complaint, require the same, such switch or other connections with or between the lines of a like common carrier, where the same is reasonably practical, to form a continuous line of transportation, and to cause the transportation of passengers or property between points within this Commonwealth to be without unreasonable interruption or delay, and shall establish through routes and service therein, and joint rates applicable thereto, and, where practicable, shall transport passengers or property over the same without transfer from the originating facilities. In case of failure of the common carriers concerned to agree among themselves upon the division of the cost of construction, maintenance, and operation of the connections thus provided for, or the allowance to be made for the interchange of service, the commission shall ascertain and, by order, prescribe and fix the equitable and just apportionment and division of the same.

(b) Limitation.—Every common carrier and motor carrier is hereby prohibited from interchanging, receiving or delivering, with, from or to any common carrier by motor vehicle which does not have in force a certificate or permit authorizing it to transport property within the jurisdiction of this part.

§ 2304. Liability of common carriers for damages to property in transit; bills of lading.

(a) General rule.—Every common carrier that receives property for transportation between points within this Commonwealth shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it, or any other common carrier to which such property may be delivered, or over whose line such property may be transported. No contract, receipt, rule or regulation shall exempt such common carrier from the liability hereby imposed. The commission may, by regulation or order, authorize or require any common carrier to establish and maintain rates related to the value of shipments declared in writing by the shipper, or agreed upon in writing as the release value of such shipments; such declaration or agreement to have no effect other than to limit liability and recovery to an amount not exceeding the value so declared or released. Any tariff filed pursuant to such regulation or order shall specifically refer thereto.

(b) Rights of holder and common carrier.—This section does not deprive any lawful holder of such receipt or bill of lading of any remedy or right of action which such holder has under existing laws. Any common carrier issuing such receipt or bill of lading shall, in the event of a recovery of a judgment against, or of a satisfaction made by, such common carrier for such loss or damage, be entitled to recover from the common carrier on whose line the loss or damage shall have been sustained, an amount not in excess of the loss or damage to such property which the lawful holder of such bill of lading or receipt would otherwise have been entitled to recover against such last mentioned common carrier, and not in excess of the amount actually paid to the holder of such receipt or bill of lading.

§ 2305. Full crews.

After reasonable notice and hearing had upon its own motion, or upon complaint, the commission may, by order, require any common carrier to employ such number of men upon any of its facilities as, in the judgment of the commission, is requisite for the safe and efficient operation of such facilities.

## CHAPTER 25 CONTRACT CARRIER BY MOTOR VEHICLE AND BROKER

Sec.

- 2501. Declaration of policy and definitions.
- 2502. Regulation and classification of contract carrier and broker.
- 2503. Permits required of contract carriers.
- 2504. Dual operation by motor carriers.
- 2505. Licenses and financial responsibility required of brokers.
- 2506. Copies of contracts to be filed with commission; charges and changes therein.
- 2507. Minimum rates fixed and practices prescribed on complaint.
- 2508. Accounts, records and reports.
- 2509. Temporary permits and licenses.



§ 2501. Declaration of policy and definitions.

(a) Declaration of policy.—It is hereby declared to be the policy of the General Assembly to regulate in this part the service of common carriers by motor vehicle and forwarders in such manner as to recognize and preserve the inherent advantages of, and foster sound economic conditions in such service, and among such carriers and forwarders in the public interest; to promote safe, adequate, economical, and efficient service by common carriers by motor vehicle and forwarders, and just and reasonable rates therefor, without unjust discrimination, and unfair or destructive practices; to improve the relations between, and coordinate the service and regulation of, common carriers by motor vehicle, forwarders, and other carriers; to develop and preserve a safe highway transportation system properly adapted to the needs of the commerce of this Commonwealth and insure its availability between all points of production and markets of this Commonwealth. It is hereby found as a fact, after due investigation and deliberation, that the service of common carriers by motor vehicle, forwarders, contract carriers by motor vehicle, and brokers, including the procurement and provision of motor vehicles and other facilities for the safe transportation of passengers or property over the highways, are so closely interwoven and interdependent, and so directly affect each other, that in order effectively to regulate such common carriers by motor vehicle and forwarders, and to provide a proper and safe highway transportation system in the public interest, it is necessary to regulate the service of such contract carriers by motor vehicle and brokers, including the procurement and provision of motor vehicles and other facilities for the safe transportation of passengers or property over the highways, in the manner set forth in this chapter.

(b) Definitions.—The following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this subsection:

“Broker.” Any person or corporation not included in the term “motor carrier” and not a bona fide employee or agent of any such carrier, or group of such carriers, who or which, as principal or agent, sells or offers for sale any transportation by a motor carrier, or the furnishing, providing, or procuring of facilities therefor, or negotiates for, or holds out by solicitation, advertisement, or otherwise, as one who sells, provides, furnishes, contracts, or arranges for such transportation, or the furnishing, providing, or procuring of facilities therefor, other than as a motor carrier directly or jointly, or by arrangement with another motor carrier, and who does not assume custody as a carrier.

“Contract carrier by motor vehicle.”

(1) The term “contract carrier by motor vehicle” includes any person or corporation who or which provides or furnishes transportation of passengers or property, or both, or any class of passengers or property, between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of such motor

vehicle, or who or which provides or furnishes, with or without drivers, any motor vehicle for such transportation, or for use in such transportation, other than as a common carrier by motor vehicle.

(2) The term "contract carrier by motor vehicle" does not include:

(i) A lessor under a lease given on a bona fide sale of a motor vehicle where the lessor retains or assumes no responsibility for maintenance, supervision or control of the motor vehicle so sold.

(ii) Any bona fide agricultural cooperative association transporting property exclusively for the members of such association on a nonprofit basis, or any independent contractor hauling exclusively for such association.

(iii) Any owner or operator of a farm transporting agricultural products from or farm supplies to such farm, or any independent contractor hauling agricultural products or farm supplies, exclusively, for one or more owners or operators of farms.

(iv) Transportation of school children for school purposes or to and from school sponsored extra curricular activities whether as participants or spectators, together with chaperons who might accompany them as designated by the board of school districts not exceeding five in number, or between their homes and Sunday school in any motor vehicle owned by the school district, private school or parochial school, or the transportation of school children between their homes and school or to and from school sponsored extra curricular or educational activities whether as participants or spectators, together with chaperons who might accompany them as designated by the board of school directors not exceeding five in number, if the person performing the extra curricular transportation has a contract for the transportation of school children between their homes and school, with the private or parochial school, with the school district or jointure in which the school is located, or with a school district that is a member of a jointure in which the school is located if the jointure has no contracts with other persons for the transportation of students between their homes and school, and if the person maintains a copy of all contracts in the vehicle at all times, or children between their homes and Sunday school in any motor vehicle operated under contract with the school district, private school or parochial school.

(v) Any person or corporation who or which uses, or furnishes for use, dump trucks for the transportation of ashes, rubbish, excavated or road construction materials.

(vi) Transportation of voting machines to and from polling places by any person or corporation for or on behalf of any political subdivision of this Commonwealth for use in any primary, general or special election.

(vii) Transportation of pulpwood, chemical wood, saw logs or veneer logs from woodlots.

(viii) Transportation by towing of wrecked or disabled motor vehicles.

(ix) Any person or corporation who or which furnishes transportation for any injured, ill or dead person.

§ 2502. Regulation and classification of contract carrier and broker.

(a) Regulation.—The commission shall regulate:

(1) Contract carriers by motor vehicle, and to that end the commission may prescribe minimum rates which are just and reasonable, and establish requirements with respect to uniform systems of accounts, records, reports, preservation of records, safety of service and equipment and insurance.

(2) Brokers, and to that end the commission may prescribe requirements with respect to licensing, financial responsibility, accounts, reports, records, services and practices of any such brokers.

(b) Classification.—The commission may from time to time establish such classifications of contract carriers by motor vehicle, or brokers, as the special nature of the service of such carriers or brokers shall require and as deemed necessary or desirable in the public interest.

§ 2503. Permits required of contract carriers.

(a) General rule.—No person or corporation shall render service as a contract carrier by motor vehicle unless there is in force with respect to such carrier a permit issued by the commission, authorizing such person or corporation to engage in such business. The application for such permit shall be determined by the commission in accordance with the provisions of subsection (b).

(b) Application and issuance.—Every application for such permit shall be made to the commission in writing, be verified by oath or affirmation, and shall be in such form and contain such information as the commission may require by its regulations. A permit shall be issued by the commission to any qualified applicant therefor authorizing in whole or in part the service covered by the application, if it appears from the application, or from any hearing held thereon, that the applicant is fit, willing and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this chapter and the lawful orders or regulations of the commission thereunder, and that the proposed service to the extent authorized by the permit will be consistent with the public interest and the policy declared in section 2501 (relating to declaration of policy and definitions); otherwise such application shall be denied.

(c) Special permit provisions.—The commission shall specify in the permit the business of the contract carrier by motor vehicle covered thereby, and the route and area required in serving the customers in such business, and shall attach to it, at the time of issuance, and from time to time thereafter, such reasonable terms, conditions, flexibility and limitations consistent with the character of the holder as are necessary to carry out, with respect to the service of such carrier, the requirements of this part.

§ 2504. Dual operation by motor carriers.

No person or corporation shall at the same time hold a certificate of public convenience as a common carrier by motor vehicle and a permit as a contract carrier by motor vehicle, unless for good cause shown, the commission shall find that such certificate and permit may be held consistently with the public interest.

§ 2505. Licenses and financial responsibility required of brokers.

(a) General rule.—No person or corporation shall engage in the business of a broker in this Commonwealth unless such person holds a brokerage license issued by the commission. No such person or corporation, by virtue of a brokerage license, shall render service as a motor carrier unless he holds a certificate of public convenience or permit, as the case may be. It shall be unlawful for any broker to employ any motor carrier who or which is not the lawful holder of an effective certificate of public convenience or permit.

(b) License application and issuance.—Every application for a brokerage license shall be made to the commission in writing, be verified by oath or affirmation, and shall be in such form and contain such information as the commission may, by its regulations, require. A brokerage license shall be issued to any qualified applicant therefor, authorizing the whole or any part of the service covered by the application, if it is found that the applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this part and the lawful orders and regulations of the commission thereunder, and that the proposed service, to the extent authorized by the license, will be consistent with the public interest and the policy declared in section 2501 (relating to declaration of policy and definitions); otherwise such application shall be denied.

(c) Regulation and bond.—The commission shall prescribe reasonable regulations to be observed by any broker for the protection of passengers or property transported by motor vehicle, and no brokerage license shall be issued or remain in force unless the holder thereof shall have furnished a bond or other security approved by the commission, in such form and amount as will insure the financial responsibility of the broker and the transportation of passengers or property in accordance with contracts, agreements or arrangements therefor.

(d) Transferability of permits and licenses.—Any permit or brokerage license issued under this chapter may be transferred pursuant to such regulations as the commission may prescribe.

§ 2506. Copies of contracts to be filed with commission; charges and changes therein.

(a) General rule.—It shall be the duty of every contract carrier by motor vehicle to reduce to writing and file with the commission all contracts, or copies thereof, pertaining to the service of such carrier, and such schedules or other information pertaining to the rates of such carrier, in such form and detail, and at such times, as the commission may require.

No such contract carrier shall engage in the transportation of passengers or property, unless the minimum charges for such transportation by such carrier have been filed with the commission, or copies of all contracts reduced to writing and filed with the commission. No reduction shall be made in any charge either directly or by means of any change in any rule, regulation or practice affecting such charge, except after 60 days notice of the proposed change filed in such form and manner as the commission may by regulation prescribe, but the commission may, in its discretion, allow such change upon less notice. Such notice shall plainly state the change proposed to be made and the time when such change will become effective. No such carrier shall demand, charge, or collect a less compensation for such transportation than the charges filed in accordance with this section, as affected by any rule, regulation, or practice so filed, or as prescribed by the commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special service, facilities, or privileges, or by any other device whatsoever, to charge, accept or receive less than the minimum charge so filed or prescribed.

(b) **Reduced charges.**—Whenever any such contract carrier shall file with the commission any schedule or contract stating a reduced charge for the transportation of passengers or property directly or by means of any rule, regulation or practice, the commission is hereby authorized and empowered, upon complaint, or upon its own motion, at once and if it so orders, without answer or other formal pleading, but upon reasonable notice, to enter upon a hearing concerning the reasonableness and justness of such charge, rule, regulation, or practice; and pending such hearing and decision thereon, the commission, by filing with such schedule or contract, and delivering to the carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such schedule or contract, or defer the use of such charge, rule, regulation or practice for a period of 90 days; and if the proceeding has not been concluded and a final order made within such period, the commission may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than 180 days beyond the time when it would otherwise become effective; and after hearing, whether completed before or after the charge, rule, regulation, or practice becomes effective, the commission may make such order with reference thereto, as would be proper in a proceeding instituted after it had become effective.

§ 2507. **Minimum rates fixed and practices prescribed on complaint.**

Whenever, after hearing upon complaint or its own motion, the commission finds that any rate of any contract carrier by motor vehicle, or any regulation or practice of any such carrier affecting such rate for the transportation of passengers or property, contravenes the public policy as set forth in section 2501 (relating to declaration of policy and definitions), the commission may prescribe such minimum rates or such regulations or practices as in its judgment may be just and reasonable to promote the public interest. Such minimum rates or such regulations or practices so

prescribed by the commission shall not be inconsistent with the policy declared in section 2501, and the commission shall give due consideration to the cost of the service of such carriers, and to the effect of such minimum rates or such regulations or practices upon the transportation of passengers or property by such carriers, and diversion of the business of any common carrier by motor vehicle to other forms of transportation. All complaints to the commission under this section shall state fully the facts complained of and the reasons for such complaints, and shall be made under oath or affirmation.

§ 2508. Accounts, records and reports.

(a) Reports.—The commission is hereby authorized to require annual, periodical, or special reports from all contract carriers by motor vehicle and brokers; to prescribe the manner and form in which such reports shall be made; and to require from such carriers and brokers, specific answers to all questions upon which the commission may deem information to be necessary. Such reports shall be under oath or affirmation whenever the commission so requires.

(b) Form of accounts and records.—The commission may prescribe the forms of any and all accounts, records, and memoranda, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of money, to be kept by contract carriers by motor vehicle, and brokers, and the length of time such accounts, records, and memoranda shall be preserved; and whenever the commission shall so prescribe, it shall be the duty of every contract carrier by motor vehicle, and broker, affected to comply therewith. In every case of a contract carrier by motor vehicle, or broker, subject to the jurisdiction of any Federal regulatory body, the systems of accounts, records, and memoranda prescribed by the commission shall conform, so far as practicable, to those prescribed by such regulatory body.

§ 2509. Temporary permits and licenses.

The commission, under such regulations as it shall prescribe, may, without hearing, in proper cases, consider and approve applications for permits and licenses, and in emergencies grant temporary permits and licenses under this chapter, pending action on permanent permits or licenses; but no application shall be denied without right of hearing thereon being tendered the applicant.

## CHAPTER 27 RAILROADS

Sec.

- 2701. Railroad connections with sidetracks and laterals.
- 2702. Construction, relocation, suspension and abolition of crossings.
- 2703. Ejectment in crossing cases.
- 2704. Compensation for damages occasioned by construction, relocation or abolition of crossings.

2705. Speedometers and speed recorders.

2706. Flag protection.

§ 2701. Railroad connections with sidetracks and laterals.

(a) General rule.—Every public utility engaged in a railroad business shall, upon application of any owner or operator of any lateral railroad, or any private sidetrack, or of any shipper tendering property for transportation, or of any consignee, construct, maintain, and operate, at a reasonable place and upon reasonable terms, a switch connection with any such lateral railroad or private sidetrack which may be constructed to connect with its railroad, where such connection may be reasonably practicable and can be put in with safety, and will furnish sufficient business to justify the construction and maintenance of the same.

(b) Additional connections and use.—Whenever any lateral line of railroad or private sidetrack has been so connected with a line of any railroad, or whenever any owner of such lateral railroad or private sidetrack has at any time heretofore sold or leased, or shall hereafter sell or lease, such lateral railroad or sidetrack to any public utility engaged in a railroad business, any person or corporation, including a municipal corporation, shall be entitled to connect therewith, or to use the same upon payment to the party incurring the primary expense thereof of a reasonable proportion of the cost of such lateral railroad or private sidetrack, and of the maintenance thereof, which shall be determined, in case of disagreement among the parties, by the commission, after notice to the interested parties, and a hearing. Such connection and use shall be made without unreasonable interference with the use thereof by the party incurring the primary expense of owning or leasing such lateral railroad or sidetrack.

§ 2702. Construction, relocation, suspension and abolition of crossings.

(a) General rule.—No public utility, engaged in the transportation of passengers or property, shall, without prior order of the commission, construct its facilities across the facilities of any other such public utility or across any highway at grade or above or below grade, or at the same or different levels; and no highway, without like order, shall be so constructed across the facilities of any such public utility, and, without like order, no such crossing heretofore or hereafter constructed shall be altered, relocated, suspended or abolished.

(b) Acquisition of property and regulation of crossing.—The commission is hereby vested with exclusive power to appropriate property for any such crossing, except as to such property as has been or may hereafter be condemned by the Department of Transportation for projects financed entirely by the Commonwealth and for Federal Aid Projects under section 1004 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law," in which case the provisions of that statute shall be in effect, and to determine and prescribe, by regulation or order, the points at which, and the manner in which, such crossing may be

constructed, altered, relocated, suspended or abolished, and the manner and conditions in or under which such crossings shall be maintained, operated, and protected to effectuate the prevention of accidents and the promotion of the safety of the public. The commission shall require every railroad the right-of-way of which crosses a public highway at grade to cut or otherwise control the growth of brush and weeds upon property owned by the railroad within 200 feet of such crossing on both sides and in both directions so as to insure proper visibility by motorists.

(c) Mandatory relocation, alteration, suspension or abolition.—Upon its own motion or upon complaint, the commission shall have exclusive power after hearing, upon notice to all parties in interest, including the owners of adjacent property, to order any such crossing heretofore or hereafter constructed to be relocated or altered, or to be suspended or abolished upon such reasonable terms and conditions as shall be prescribed by the commission. In determining the plans and specifications for any such crossing, the commission may lay out, establish, and open such new highways as, in its opinion, may be necessary to connect such crossing with any existing highway, or make such crossing more available to public use; and may abandon or vacate such highways or portions of highways as, in the opinion of the commission, may be rendered unnecessary for public use by the construction, relocation, or abandonment of any of such crossings. The commission may order the work of construction, relocation, alteration, protection, suspension or abolition of any crossing aforesaid to be performed in whole or in part by any public utility or municipal corporation concerned or by the Commonwealth.

(d) Procedure for appropriation of property.—When any real property is appropriated by the commission under this section, each parcel of such property so appropriated, shall be accurately described by metes and bounds, and the record owner of each such parcel shall be named in the order of appropriation. Unless otherwise recorded, the commission shall file with the recorder of deeds of the proper county, a copy of that portion of the order of the commission which appropriates such property, and such plans and other detailed information as the commission may deem necessary. Such portion of the commission's order dealing with the specific property appropriated shall be recorded and indexed under the name or names of the record owners of such specific property at the expense of the utility or utilities, political subdivision, municipality or municipalities, governmental agency, including the Department of Transportation and Public Utility Commission, corporation or persons upon whose instigation, petition or complaint the said crossing was constructed, reconstructed, relocated, altered, suspended or abolished, as may be ordered, to bear such expense or recording by the commission. When such appropriation of real property has been recorded under the provisions of any other statute, such recording shall not be duplicated under the terms of this subsection.

(e) Reactivation.—The commission may, within its discretion upon



petition by any railroad, the Commonwealth, a political subdivision or any other affected party by order reactivate any crossing suspended under this section.

(f) **Danger to safety.**—Upon the commission's finding of an immediate danger to the safety and welfare of the public at any such crossing, the commission shall order the crossing to be immediately altered, improved, or suspended. Thereafter hearing shall be held and costs shall be allocated in the manner prescribed in this part.

(g) **Suspensions.**—Any order of suspension under this section shall require the following for the protection of the motoring public:

(1) Removal or covering of crossing warning devices.

(2) (i) Paving over the tracks; or

(ii) removal of the tracks and paving over of the area formerly occupied by said tracks; or

(iii) barricading the crossing.

§ 2703. Ejectment in crossing cases.

When any real property is appropriated by the commission in connection with a crossing improvement under this part, the commission may direct the removal of all structures within the lines of such appropriation.

§ 2704. Compensation for damages occasioned by construction, relocation or abolition of crossings.

(a) **General rule.**—The compensation for damages which the owners of adjacent property taken, injured, or destroyed may sustain in the construction, relocation, alteration, protection, or abolition of any crossing under the provisions of this part, shall, after due notice and hearing, be ascertained and determined by the commission. Such compensation, as well as the cost of construction, relocation, alteration, protection, or abolition of such crossing, and of facilities at or adjacent to such crossing which are used in any kind of public utility service, shall be borne and paid, as provided in this section, by the public utilities or municipal corporations concerned, or by the Commonwealth, in such proper proportions as the commission may, after due notice and hearing, determine, unless such proportions are mutually agreed upon and paid by the interested parties.

(b) **Judicial review.**—Any party to the proceeding dissatisfied with the determination of the commission may appeal therefrom, as provided by law, and for this purpose is hereby authorized to sue the Commonwealth. The commission may, of its own motion, or upon application of any party in interest, submit to the court of common pleas of the county wherein the property affected is located, the determination of the amount of damages to any property owner due to such condemnation, for which purpose such court shall appoint viewers, from whose award of damages an appeal to said court shall lie on the part of any person or party aggrieved thereby, under the general law applicable to the appointment of viewers, for the ascertainment of damages due to the condemnation of private property for public use.

(c) Payment of compensation.—The amount of damages or compensation determined and awarded to be paid the owners of adjacent property by the Commonwealth shall, in each instance, be paid by the State Treasurer, on a warrant drawn by the State Treasurer, upon the presentation to that officer of a statement setting forth the amount determined to be paid as aforesaid, duly certified by the commission; such payment to be paid out of any funds specifically appropriated for the improvement of the roads or highways of this Commonwealth; and in case of a verdict and judgment thereon for the damages or compensation, recorded by any such adjacent property owners upon appeal, the same shall be paid out of any funds appropriated as aforesaid; and any court of common pleas hearing and determining such appeal is hereby authorized and empowered to issue a writ of mandamus to such commission and the State Treasurer, or either of them, as the case may require, for the payment of such judgment.

(d) Recovery of compensation.—The commission shall have the right to recover, for and on behalf of the Commonwealth, by due process of law, as debts of like amount are now by law recoverable, from the public utility or municipal corporation concerned, in such amounts or proportions against each as may be determined by the commission, as hereinbefore provided in this section, the amount of the damages or compensation awarded to the owners of adjacent property by the commission, or by the court, and the amounts so received shall be paid into the State Treasury, through the Department of Revenue, to the credit of the Motor License Fund.

§ 2705. Speedometers and speed recorders.

(a) General rule.—No railroad locomotive shall be operated in excess of 30 miles per hour in this Commonwealth without a device or devices making a record of the speed at which the locomotive is traveling and providing the engineer or operator of the locomotive with a view of such speed. Both devices shall be functioning correctly within four miles per hour.

(b) Exceptions.—Locomotives operated or used exclusively within designated yard limits in switching or transfer service need not be equipped in accordance with the provisions of this section. Locomotives while being used in commuter passenger service need not be equipped with a speed recording device.

(c) Notification of compliance.—Each railroad shall notify the commission of the date that each locomotive comes into compliance with the provisions of this section. The notification shall state the serial number or other identification of the locomotive.

(d) Schedule of regulated locomotives.—Each railroad affected by the provisions of this section shall maintain at a designated location a list or schedule of the locomotives referred to in this section. It shall set forth, along with other information, the date that the device or devices referred to in subsection (a) were calibrated and found to be functioning in accordance

with the provisions of this section. It shall advise the commission as to such location. In the event of an accident during the operation of a locomotive or in the event of a disciplinary proceeding in which a railroad employee is charged with excessive speed, the record required by this section showing the speed at the time and place involved shall be retained by the railroad, at a location made known to the Public Utility Commission, for a period of six months after said accident or disciplinary proceeding. In any disciplinary proceeding in which a railroad employee is charged with excessive speed in the operation of a locomotive equipped with a speed recorder the railroad may not introduce other evidence of such speed unless the record has been retained in compliance with this subsection.

(e) Enforcement.—The commission shall enforce the provisions of this section and may issue such order or orders as may be proper to require compliance therewith.

§ 2706. Flag protection.

(a) General rule.—All railroads operating in this Commonwealth shall promulgate and maintain appropriate operating rules and special instructions for the government of their respective employees in conformity with the following:

(1) When a train stops under circumstances in which it may be overtaken by another train, a member of the crew must provide flagging protection by going back immediately with a red flag, torpedoes and fuses by day and with a red and/or white light, torpedoes and fuses by night, a sufficient distance to insure full protection, placing two torpedoes on the rail and also, when necessary, display lighted fuses.

(2) When recalled and safety to the train will permit, he may return.

(3) When conditions require, he will leave the torpedoes and a lighted fusee.

(4) The front of the train must be protected in the same way, when necessary, by a member of the crew.

(5) When a train is moving under circumstances in which it may be overtaken by another train, a member of the crew must take such action as may be necessary to insure full protection. By night, or by day, when the view is obscured, lighted fusees must be dropped off the moving train or displayed at proper intervals.

(6) When day signals cannot be plainly seen, owing to weather or other conditions, night signals must also be used.

(7) Conductors and enginemen are responsible for the protection of their trains.

(8) When a pusher engine is assisting a train, coupled behind the cabin or caboose car, and the member of the crew who protects the rear-end of the train is riding in the cabin or caboose car, the requirements as to the fusees will be met by dropping them off between the cabin or caboose car and pusher engine on the track the train is using, and not between that track and an adjacent track.

(b) Exceptions.—Unless specific circumstances indicate to the

contrary, it will be presumed that trains stopping under the following circumstances will not be overtaken by another train:

(1) Passenger trains making normal station stops.

(2) All trains stopping in manual block territory protected by absolute block.

(3) All trains stopping so as to be completely within the limits of classification or storage yards at the usual place to change crews or remove power.

(c) Construction of section.—For the purposes of this section a “train” means a movement on which the air brakes must be connected and functioning under Federal law. This section is not intended to require the employment of additional employees or restrict the use of crew members in any manner.

(d) Enforcement.—The commission shall enforce the provisions of this section.

## CHAPTER 29 TELEPHONE AND TELEGRAPH WIRES

Sec.

2901. Definitions.

2902. Private wire for gambling information prohibited.

2903. Written contract for private wire.

2904. Joint use of telephone and telegraph facilities.

§ 2901. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Dissemination.” The act of transmitting, distributing, advising, spreading, communicating, conveying or making known.

“Private wire.” Any and all service equipment, facilities, conduits, poles, wires, circuits, systems by which or by means of which service is furnished for communication purposes, either through the medium of telephone, telegraph, Morse, teletypewriter, loudspeaker or any other means, or by which the voice or electrical impulses are sent over a wire, and which services are contracted for or leased for service between two or more points specifically designated, and are not connected to or available for general telegraphic or telephonic exchange or toll service, and shall include such services known as “special contract leased wire service,” “leased line,” “private line,” “private system,” “Morse line,” “private wire,” but shall not include the usual and customary telephone service by which the subscriber may be connected at each separate call to any other telephone designated by him only through the general telephone exchange system or toll service, and shall not include private wires used for fire or burglar alarm purposes, nor telegraph messenger call boxes and circuits used in connection therewith, time clock circuits used for furnishing correct time service, nor

telegraph teleprinters when these teleprinters terminate in the telegraph companies' offices and are not directly connected between two customers.

"Public utility." A person, partnership, association or corporation, now or hereafter owning or operating in this Commonwealth, equipment or facilities for conveying or transmitting messages or communications by telephone or telegraph to the public for compensation.

§ 2902. Private wire for gambling information prohibited.

(a) General rule.—It is unlawful for any public utility knowingly to furnish to any person or corporation any private wire for use or intended for use in the dissemination of information in furtherance of gambling or for gambling purposes. Any contract shall constitute prima facie evidence that such private wire will be used in furtherance of gambling or for gambling purposes if it shall appear in such contract, or otherwise, that such private wire will be used, is intended to be used or has been used for the dissemination of information pertaining to any horse-racing, race track, race horse, betting, betting odds or any information relative thereto.

(b) Burden of proof.—In any proceeding before the commission under this chapter and in any hearing or proceeding on appeal, the burden of proof shall be on the public utility and the person or corporation contracting for such private wire to show that the private wire has not been used, or is not being used, or is not intended for use in the furtherance of gambling or for gambling purposes.

§ 2903. Written contract for private wire.

(a) General rule.—It is unlawful for any public utility to furnish to any person or corporation any private wire, except in pursuance of a written contract signed by the public utility, by the person or corporation contracting for said private wire and responsible under the terms of the contract for the payment for the service, and by the person or corporation in possession or control of any place or location designated in the contract for installation or connection of said private wire, which contract shall include a detailed written statement of the purpose for which such private wire is intended to be used.

(b) Exceptions.—This section does not apply to:

(1) The furnishing of any private wire in case of public emergency, or where the furnishing of the said private wire is for a temporary purpose not to exceed 48 hours.

(2) Any private wire furnished for use in radio broadcasting, or to any private wire furnished for use by any protective service operating under a franchise granted by any municipality, or to any private wire furnished for use in interstate commerce, or to any private wire furnished for use of newspapers of general circulation.

(c) Action by commission.—It is unlawful for any public utility to furnish to any person or corporation any private wire without first furnishing to the commission a duplicate original of the written contract required by this section. The commission shall examine the same forthwith and conduct such investigation as it may deem necessary, and, if upon

examination of the contract, or after investigation, or otherwise at any time, the commission shall find that the said private wire is intended for or has been used for or is being used for the transmission of information or advice in furtherance of gambling, the commission shall disapprove the said contract and give notice of such disapproval to the contracting parties. Thereafter it shall be unlawful for any public utility to furnish the said private wire provided for in the said contract. This subsection does not apply to the furnishing of any private wire in case of public emergency, or where the furnishing of the said private wire is for a temporary purpose not to exceed 48 hours.

(d) **Hearing.**—Any public utility or other person or corporation party to the contract who shall feel aggrieved at the action of the commission in disapproving any contract for any private wire shall be entitled to a hearing before the commission upon written request.

(e) **Illegal use.**—It is unlawful for any person or corporation, who has been furnished a private wire by any public utility in accordance with the provisions of this chapter, to use such private wire for any purpose other than that specified in the contract.

§ 2904. **Joint use of telephone and telegraph facilities.**

(a) **Through lines for continuous service.**—The commission may, upon complaint or upon its own motion, after reasonable notice and hearing, by order, require any two or more public utilities, whose lines or wires form a continuous line of communication, or could be made to do so by the construction and maintenance of suitable connections or the joint use of facilities, or the transfer of messages at common points, between different localities which cannot be communicated with, or reached by, the lines of either public utility alone, where such service is not already established or provided, to establish and maintain through lines within this Commonwealth between two or more such localities. The rate for such service shall be just and reasonable and the commission shall have power to establish the same, and declare the portion thereof to which each company affected thereby is entitled and the manner in which the same must be secured and paid. All facilities necessary to establish such service shall be constructed and maintained in such manner and under such rules, with such division of expense and labor, as may be required by the commission.

(b) **Trunk line connections.**—The commission may, upon complaint or upon its own motion, after reasonable notice and hearing, by order, require any one or more public utilities to connect their facilities, through the medium of suitable trunk lines, with such manual or automatic intercommunicating telephone or telegraph systems as may be wholly owned or leased by such public utilities, or by any other person or corporation. Rates for such trunk line connections and service shall be in accordance with tariffs filed with and approved by the commission.

SUBPART E  
MISCELLANEOUS PROVISIONS

Chapter

- 31. Foreign Trade Zones
- 33. Violations and Penalties

CHAPTER 31  
FOREIGN TRADE ZONES

Sec.

- 3101. Operation as a public utility.
- 3102. Establishment by private corporations and municipalities.
- 3103. Formation and authority of private corporations.
- 3104. Municipalities and corporations to comply with law; forfeiture of rights.
- 3105. Reports to Department of Community Affairs.

§ 3101. Operation as public utility.

Each foreign trade zone established and maintained within the limits of this Commonwealth as set forth in this chapter shall be operated as a public utility, and all rates and charges for all services or privileges within the zone shall be fair and reasonable, but no such rates or charges shall be subject to supervision, regulation or control by the commission. Every municipality and private corporation operating and maintaining a foreign trade zone shall afford to all who may apply for the use of the trade zone and its facilities and appurtenances, uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments.

§ 3102. Establishment by private corporations and municipalities.

Any private corporation formed in this Commonwealth for the purposes expressed in this part and any municipality of this Commonwealth, is hereby authorized to make application in accordance with the provisions of the act of Congress of the United States, approved June 18, 1934, entitled "An act to provide for the establishment, operation, and maintenance of foreign trade zones in ports of entry of the United States; to expedite and encourage foreign commerce, and for other purposes," (Public Act No. 397, 73rd Congress), referred to in this chapter as "the act of Congress"; to the board consisting of the Secretary of Commerce, the Secretary of the Treasury, and the Secretary of War, thereby established, referred to in this chapter as "the board"; for the privilege of establishing, operating, and maintaining a foreign trade zone in, or adjacent to, any port of entry under the jurisdiction of the United States in order to expedite and encourage foreign commerce. If, and when, such application is granted, the grantee shall have power to establish, operate, and maintain such foreign trade zone. Any foreign trade zone established by a municipality may be operated and maintained only within the limits of such municipality, or

adjacent thereto. Any such foreign trade zone shall be established, operated, and maintained by a municipality or private corporation in accordance with the provisions of the act of Congress.

§ 3103. Formation and authority of private corporations.

Any such private corporation desiring to engage in the business set forth in this chapter shall be formed as a business corporation under the act of May 5, 1933 (P.L.364, No.106), known as the "Business Corporation Law," and shall have all the powers, rights and privileges, and be subject to all the restrictions and limitations provided by the "Business Corporation Law."

§ 3104. Municipalities and corporations to comply with law; forfeiture of rights.

Each municipality and private corporation establishing, operating, and maintaining a foreign trade zone shall fully comply with all of the provisions of the act of Congress and the rules and regulations prescribed by the board thereunder, and shall have all the powers, rights, privileges, and authority conferred by the act of Congress and said rules and regulations, and be subject to the limitations and restrictions contained in said act and said rules and regulations. Any such municipality or private corporation shall forfeit any right and privilege to operate and maintain a foreign trade zone, under the provisions of this part or under the charter of any private corporation formed as aforesaid, if, and when, its grant of privilege is finally revoked under the authority granted in the act of Congress.

§ 3105. Reports to Department of Community Affairs.

Each municipality and private corporation operating a foreign trade zone within the limits of this Commonwealth shall file a copy of every report which it shall make, or be required to make, under the act of Congress with the Department of Community Affairs.

### CHAPTER 33 VIOLATIONS AND PENALTIES

Sec.

- 3301. Civil penalties for violations.
- 3302. Criminal penalties for violations.
- 3303. Nonliability for enforcement of lawful tariffs and rates.
- 3304. Unlawful issuance and assumption of securities.
- 3305. Misapplication of proceeds of securities.
- 3306. Execution of unlawful contracts.
- 3307. Refusal to obey subpoena and testify.
- 3308. Concealment of witnesses and records.
- 3309. Liability for damages occasioned by unlawful acts.
- 3310. Unauthorized operation by carriers and brokers.
- 3311. Bribery.
- 3312. Evasion of motor carrier and broker regulations.
- 3313. Excessive price on resale.



3314. Limitation of actions and cumulation of remedies.

3315. Disposition of fines and penalties.

§ 3301. Civil penalties for violations.

(a) General rule.—If any public utility, or any other person or corporation subject to this part, shall violate any of the provisions of this part, or shall do any matter or thing herein prohibited; or shall fail, omit, neglect, or refuse to perform any duty enjoined upon it by this part, or shall fail, omit, neglect or refuse to obey, observe, and comply with any regulation or final direction, requirement, determination or order made by the commission, or any order of the commission prescribing temporary rates in any rate proceeding, or to comply with any final judgment, order or decree made by any court, such public utility, person or corporation for such violation, omission, failure, neglect, or refusal, shall forfeit and pay to the Commonwealth a sum not exceeding \$1,000, to be recovered by an action of assumpsit instituted in the name of the Commonwealth. In construing and enforcing the provisions of this section, the violation, omission, failure, neglect, or refusal of any officer, agent, or employee acting for, or employed by, any such public utility, person or corporation shall, in every case be deemed to be the violation, omission, failure, neglect, or refusal of such public utility, person or corporation.

(b) Continuing offenses.—Each and every day's continuance in the violation of any regulation or final direction, requirement, determination, or order of the commission, or of any order of the commission prescribing temporary rates in any rate proceeding, or of any final judgment, order or decree made by any court, shall be a separate and distinct offense. If any interlocutory order of supersedeas, or a preliminary injunction be granted, no penalties shall be incurred or collected for or on account of any act, matter, or thing done in violation of such final direction, requirement, determination, order, or decree, so superseded or enjoined for the period of time such order of supersedeas or injunction is in force.

(c) Gas pipeline safety violations.—Any person or corporation, defined as a public utility in this part, who violates any provisions of this part governing the safety of pipeline or conduit facilities in the transportation of natural gas, flammable gas, or gas which is toxic or corrosive, or of any regulation or order issued thereunder, shall be subject to a civil penalty of not to exceed \$1,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed \$200,000 for any related series of violations.

(d) Deduction from sums owing by Commonwealth.—The amount of the penalty, when finally determined, may be deducted from any sums owing by the Commonwealth to the person or corporation charged or may be recovered in a civil action.

§ 3302. Criminal penalties for violations.

Any person, including an officer, agent or employee of any public utility, or any corporation, who or which shall knowingly fail, omit, neglect or refuse to obey, observe, and comply with any regulation or final order,

direction, or requirement of the commission, or any order of the commission prescribing temporary rates in any rate proceeding, or any final order or decree of any court, or who shall knowingly procure, aid, or abet any such violation, omission, failure, neglect, or refusal, shall be guilty of a misdemeanor of the first degree.

§ 3303. Nonliability for enforcement of lawful tariffs and rates.

(a) Public utilities.—No public utility, nor any officer, agent or employee thereof, shall be liable for any penalty or forfeiture, or be subject to any prosecution, on account of demanding, collecting, or receiving any rate for any service, or for enforcing any regulation, or practice when such rate, regulation, or practice is contained in a tariff properly filed with the commission, and posted or published as herein provided, and is applicable by the terms thereof at the time to such service although such rate, regulation, method or practice may be found by the commission to be unjust or unreasonable.

(b) Contract carrier by motor vehicle.—No contract carrier by motor vehicle, nor any officer, agent or employee thereof, shall be liable for any penalty or forfeiture, or be subject to any prosecution on account of demanding, collecting or receiving any minimum rate prescribed by the commission under the provisions of this part.

§ 3304. Unlawful issuance and assumption of securities.

Any individual who shall knowingly affix his name or attestation to any stock certificate or other evidence of equitable interest, or any bond, note, trust certificate, or other security issued or assumed by any public utility, or any director who shall knowingly assent to the issuance or assumption of any such stock certificate, or other evidence of equitable interest, or any bond, note or other evidence of indebtedness, or other security issued by any public utility, or any director who shall knowingly assent to the issue of any such certificate of stock, trust certificate, corporate bond, note, or other evidence of indebtedness, or other security of any public utility, in violation of any of the provisions or requirements of this part, or any individual who shall knowingly make or assent to any false statement in any securities certificate required to be registered with the commission under the provisions of Chapter 19 (relating to securities and obligations) or who shall by any false statements, oral or written, knowingly make, procure, or seek to procure, of the commission the registration of any such securities certificate, shall be guilty of a misdemeanor of the first degree.

§ 3305. Misapplication of proceeds of securities.

Any individual who shall knowingly make or assent to any application or disposition of any stock certificate, or other evidence of equitable interest, or any bond, note, trust certificate, or other evidence of indebtedness, or other security, or the proceeds of the sale or pledge thereof, or any part thereof, in violation of any statement or contrary to any purpose in relation thereto set forth or contained in any securities certificate required to be registered with the commission under the provisions of Chapter 19 (relating to securities and obligations) or who shall knowingly make or assent to any false statement in any report or

account to the commission as to the disposition or application of the proceeds, or any part thereof, of any sale or pledge of any stock certificate, or other evidence of equitable interest, or any bond, note, trust certificate, or other evidence of indebtedness, or other security, shall be guilty of a misdemeanor of the first degree.

§ 3306. Execution of unlawful contracts.

Any individual who shall knowingly affix his name or attestation to any written contract or arrangement, or who shall enter into any written contract or arrangement, or any individual who shall knowingly assent to the entering into of any written or verbal contract, in violation of any of the provisions or requirements of this part, or any individual knowingly making or assenting to any false statement in any application for the approval of any contract or arrangement, the approval of which is required by this part, shall be guilty of a misdemeanor of the first degree.

§ 3307. Refusal to obey subpoena and testify.

If any individual who shall be subpoenaed to attend before the commission, or its representative, shall fail to obey the command of such subpoena, or if any individual in attendance before the commission, or its representative, shall refuse to be sworn or to be examined, or to answer any relevant question, or to produce any relevant data, book, record, paper, or document when ordered so to do by the commission, or its representative, such person shall be guilty of a summary offense.

§ 3308. Concealment of witnesses and records.

If any individual shall absent himself from the jurisdiction of this Commonwealth or conceal himself for the purpose of avoiding service of a subpoena issued by the commission, or its representative; or shall remove relevant data, books, records, papers, or other documents out of this Commonwealth for the purpose of preventing their examination by the commission; or shall destroy or conceal any such data, books, records, papers or other documents for such purpose, he shall be adjudged guilty of contempt; and any court of common pleas may impose a fine of not less than \$100 for each day during the continuance of such refusal, neglect, concealment, or removal; and if such court shall find that the neglect, refusal, or concealment, or the removal or destruction of data, books, records, papers, or other documents by such witness, has been occasioned by the advice or consent of any party to the proceedings before the commission, or in anywise aided or abetted by such party, then, in default of payment of such fine by the individual in contempt, the same shall be paid by such party and may be recovered from such party by an action in the name of the Commonwealth, in any court of common pleas, as other like fines and penalties are now by law recoverable. Imprisonment for contempt shall be by commitment to the county jail of the county in which such hearing is held.

§ 3309. Liability for damages occasioned by unlawful acts.

(a) General rule.—If any person or corporation shall do or cause to be done any act, matter, or thing prohibited or declared to be unlawful by this part, or shall refuse, neglect, or omit to do any act, matter, or thing

enjoined or required to be done by this part, such person or corporation shall be liable to the person or corporation injured thereby in the full amount of damages sustained in consequence thereof. The liability of public utilities, contract carriers by motor vehicles, and brokers for negligence, as heretofore established by statute or by common law, shall not be held or construed to be altered or repealed by any of the provisions of this part.

(b) Rights of Commonwealth unaffected.—The recovery in this section authorized shall in no manner affect a recovery by the Commonwealth of the penalty prescribed in section 3301 (relating to civil penalties for violations) for such violations of this part.

§ 3310. Unauthorized operation by carriers and brokers.

Any person or corporation operating as a motor carrier or as a common carrier by airplane, and any operator or employee of such carrier, and any person or corporation operating as a broker, without a certificate of public convenience, permit or license, authorizing the service performed, as required by this part, shall be guilty of a summary offense, and any subsequent offense by such person or corporation shall constitute a misdemeanor of the third degree.

§ 3311. Bribery.

Any officer, attorney, agent, or employee of any public utility who offers to any commissioner, or to any person appointed or employed by the commission, any office, place, appointment, or position, or offers to give to any commissioner, or to any person employed in the service of the commission, any free pass or transportation, or any reduction in fares to which the public generally is not entitled, or any free carriage of property, or any present, gift, or gratuity, money, or valuable thing of any kind, shall be guilty of a misdemeanor of the third degree.

§ 3312. Evasion of motor carrier and broker regulations.

Any person, whether carrier, shipper, consignee, or broker, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant, or give, or solicit, accept, or receive any rebate, concession, or discrimination, in violation of any provision of this part with respect to motor carriers, or who, by means of false statements or representations or by use of false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully, assist, suffer or permit any person or persons, natural or artificial, to obtain transportation of property by motor carrier subject to this part, for less than the applicable rate, fare or charge, or who shall knowingly and willfully, by any such means, or otherwise seek to evade or defeat regulation in this part provided for motor carriers or brokers, shall be guilty of a summary offense for the first offense and a misdemeanor of the third degree for subsequent offenses.

§ 3313. Excessive price on resale.

Any person, corporation or other entity violating the provisions of section 1313 (relating to price upon resale of public utility services) shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay

a fine of \$100 multiplied by the number of residential bills exceeding the maximum prescribed in section 1313.

§ 3314. Limitation of actions and cumulation of remedies.

(a) General rule.—No action for the recovery of any penalties or forfeitures incurred under the provisions of this part, and no prosecutions on account of any matter or thing mentioned in this part, shall be maintained unless brought within three years from the date at which the liability therefor arose, except as otherwise provided in this part.

(b) Remedies and penalties cumulative.—All suits, remedies, prosecutions, penalties, and forfeitures provided for, or accruing under, this part, shall be cumulative.

§ 3315. Disposition of fines and penalties.

All fines imposed, and all penalties recovered, under the provisions of this part, shall be paid to the commission, and by it paid into the State Treasury, through the Department of Revenue, to the credit of the General Fund.

## PART II OTHER PROVISIONS (Reserved)

Section 2. Repeals.—(a) Absolute repeals.—The following acts and parts of acts are repealed:

Section 7, act of May 5, 1832 (P.L.501, No.189), entitled “An act regulating lateral Rail-Roads.”

Sections 12 and 18, act of February 19, 1849 (P.L.79, No.76), entitled “An act regulating railroad companies.”

Act of April 15, 1851 (1852 P.L.720, No.401), entitled “An act to incorporate the Susquehanna and Erie railroad company.”

Act of December 16, 1863 (1864 P.L.1124, No.962), entitled “An act in relation to feeding stock, while awaiting transportation on railroads.”

Act of April 11, 1867 (P.L.69, No.49), entitled “An act to regulate the carriage of baggage by railroad companies, and to prescribe the duties and obligations of carriers and passengers in relation thereto.”

Sections 10 and 11, act of April 4, 1868 (P.L.62, No.29), entitled “An act to authorize the formation and regulation of railroad corporations.”

Section 2, act of June 19, 1871 (P.L.1360, No.1264), entitled “An act relating to legal proceedings by or against corporations.”

Act of May 15, 1874 (P.L.178, No.109), entitled “An act to enforce the sixth section of the seventeenth article of the constitution of this commonwealth, providing that no president, director, officer, agent or employee of any railroad or canal company shall be interested in the furnishing of material or supplies to such company, or in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled or worked by such company.”

Act of June 15, 1874 (P.L.289, No.176), entitled “An act to carry into effect section eight of article seventeen of the constitution, in relation to

granting free passes or passes at a discount by railroad or other transportation companies.”

Act of May 5, 1876 (P.L.116, No.87), entitled “An act regulating the passenger fare and freight rates on railroads operated by steam power, not exceeding fifteen miles in length.”

Act of May 19, 1879 (P.L.71, No.80), entitled “An act to repeal all local or special laws regulating or fixing the rates of fare to be charged by city passenger railway companies, in cities of the third class.”

Act of June 7, 1901 (P.L.531, No.253), entitled “An act relating to railroad crossings of highways, and for the regulation, alteration and abolition of grade crossings, except in cities of the first and second classes.”

Act of May 4, 1905 (P.L.380, No.232), entitled “An act to empower railroad companies to change the location and grade, or either, of bridges and their approaches belonging to bridge corporations, to accommodate the location and construction of their railroad, or the changing, relocating, widening, straightening, or improvement thereof.”

Act of April 5, 1907 (P.L.59, No.52), entitled “An act to regulate the maximum rate and minimum fare to be charged for transportation of passengers by railroad companies, and prescribing the penalty for violation thereof.”

Act of May 31, 1907 (P.L.352, No.252), entitled “An act to enforce the provisions of section five, article seventeen, of the Constitution of Pennsylvania, relating to the powers of incorporated common carriers and the privileges of mining and manufacturing companies; making the violation thereof a misdemeanor, and providing a punishment for the same.”

Act of May 31, 1907 (P.L.352, No.253), entitled “An act to carry into effect the provisions of section seven, article seventeen, of the Constitution of Pennsylvania, relating to discriminations and preferences in charges and facilities; and making the violation thereof a misdemeanor, and providing a penalty for the same.”

Act of May 31, 1907 (P.L.353, No.254), entitled “An act to enforce the provisions of section four, article seventeen, of the Constitution of Pennsylvania, pertaining to the consolidation of parallel or competing lines of railroads, canals, or other companies, and restricting the officers of such companies; empowering juries to decide whether companies are parallel or competing lines; and making the violation thereof a misdemeanor, and providing a punishment for the same.”

Act of May 31, 1907 (P.L.354, No.255), entitled “An act to carry into effect the provisions of section three, article seventeen, of the Constitution of Pennsylvania, relating to the transportation of persons and property; and making the violation thereof a misdemeanor, and providing a penalty for the same.”

Act of June 1, 1907 (P.L.359, No.259), entitled “An act forbidding those officers, employes, or agents of any railroad company operating within this Commonwealth, who have charge, directly or indirectly, of the distribution of cars to shippers thereon, to own or have any interest, directly or

indirectly, in any operated coal property, or in the stock of any mining or manufacturing company, along the line of such railroad; making the violation hereof a misdemeanor, and providing a punishment for the same."

Act of June 7, 1907 (P.L.464, No.313), entitled "An act to prevent discrimination by, and to regulate rates and charges for carrying freight and passengers by, narrow-gage railroads within the Commonwealth; and providing a remedy for the violation thereof."

Act of June 10, 1911 (P.L.867, No.339), entitled "An act fixing the width of public highways, where such highways are crossed above or below grade by the tracks of any railroad, except in cities and boroughs."

Act of July 10, 1919 (P.L.901, No.357), entitled "An act supplementary to the Public Service Company Law, approved the twenty-sixth day of July, Anno Domini one thousand nine hundred and thirteen, giving to the Public Service Commission the power, in the elimination of grade crossings, to direct the construction of bridges or viaducts over, above, and across railroads and railways, and, where necessary, across rivers and streams; and, in order to effect said elimination, to change the location to a new place or to another street or highway; and, where the said bridge or viaduct is located by the commission and directed to be constructed in the line of any street or highway which crosses a navigable river, or a stream which has been declared a public highway by act of Assembly, at a point where the Commonwealth has been authorized to construct a public bridge to replace a county bridge destroyed by flood or other casualty, to provide for the payment by the Commonwealth of part of the cost of said improvement from appropriations made to the Board of Commissioners of Public Grounds and Buildings, the making of the contract, and the expenditure of said appropriation."

Act of April 7, 1927 (P.L.134, No.105), entitled "An act relating to such highways as are opened by the order of the Public Service Commission of the Commonwealth of Pennsylvania in proceedings relating to elimination of grade crossings; and relating to the establishment of such roads and connecting roads as State highways; and providing for their construction and maintenance at the expense of the Commonwealth; and providing in certain event for the opening and maintaining of said roads by city, borough, incorporated town, and township authorities."

Section 303, act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

Act of June 10, 1935 (P.L.291, No.126), entitled "An act empowering private corporations hereafter formed and municipalities to establish, operate, and maintain foreign-trade zones in or adjacent to ports of entry of the United States in accordance with the act of Congress of the United States; and prescribing the powers and duties of such corporations and municipalities in connection therewith."

Act of March 31, 1937 (P.L.160, No.43), entitled "An act creating a commission to be known as the Pennsylvania Public Utility Commission; defining in part the powers and duties of such commission; abolishing The

Public Service Commission of the Commonwealth of Pennsylvania, terminating the terms of the members thereof, and transferring to the Pennsylvania Public Utility Commission the records, employes, property, and equipment of The Public Service Commission of the Commonwealth of Pennsylvania; authorizing the Pennsylvania Public Utility Commission to appear in and complete all pending proceedings, legal or otherwise, instituted before, by or against The Public Service Commission of the Commonwealth of Pennsylvania; providing that all certificates of public convenience, contracts, orders, and rules and regulations of the latter commission shall remain effective until repealed, changed or modified by the Pennsylvania Public Utility Commission, and transferring and appropriating to the Pennsylvania Public Utility Commission any unexpended balance of any existing appropriation to The Public Service Commission of the Commonwealth of Pennsylvania."

Act of May 28, 1937 (P.L.1053, No.286), known as the "Public Utility Law."

Act of December 1, 1938 (Sp.Sess., P.L.111, No.45), entitled "An act making illegal the furnishing of certain telephone and telegraph wires and services by certain public utilities for use in the dissemination of information in furtherance of gambling; making it unlawful for any public utility to furnish private wires, except by written contract; conferring and imposing upon the Pennsylvania Public Utility Commission the power and duty to disapprove all contracts for private wires used for, or intended to be used for, the transmission of information or advices in furtherance of gambling; making illegal the furnishing of certain wires by certain public utilities after the disapproval of the contract therefor by the Pennsylvania Public Utility Commission; making illegal the use of certain wires for purposes other than those specified in the written contract therefor; imposing penalties; making the dissemination of information pertaining to horse racing over certain wires prima facie evidence that the same is in furtherance of gambling; prescribing the burden of proof in proceedings hereunder; and providing for appeal."

Section 3(d)(11), act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act."

Act of June 5, 1943 (P.L.901, No.373), entitled "An act to regulate persons, partnerships and corporations engaged in the business of renting motor vehicles; authorizing the Public Utility Commission to administer and enforce the provisions of this act; and imposing penalties."

Act of January 5, 1972 (1971 P.L.660, No.174), entitled "An act requiring certain locomotives operating over thirty miles per hour to have certain equipment thereon by certain dates; requiring the maintenance of certain records thereof by railroads operating same, the notification of the Public Utility Commission thereof, and placing certain duties on that commission."

Act of March 28, 1972 (P.L.158, No.60), entitled "An act limiting the rates at which certain entities other than public utilities may resell public utility service to residential consumers; and providing penalties."



Act of July 25, 1975 (P.L.96, No.49), entitled "An act requiring speed recorders on locomotives."

Act of December 3, 1975 (P.L.481, No.142), entitled "An act requiring that flag protection be provided against following trains occupying the same track."

(b) Repeal as inconsistent.—Section 709, act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," is repealed insofar as it is inconsistent with this act.

Section 3. Effective date.—This act shall take effect in 60 days except that the provisions of 66 Pa.C.S. §§ 1308 and 1310, insofar as they are different from the law repealed hereby, shall take effect October 7, 1977.

APPROVED—The 1st day of July, A. D. 1978.

MILTON J. SHAPP